

EXHIBIT S

1 IN THE UNITED STATES DISTRICT COURT

2 WESTERN DISTRICT OF TEXAS

3 EL PASO DIVISION

4
5 ROSWITHA M. SAENZ,
Individually and on behalf of
6 THE ESTATE OF DANIEL SAENZ,
Deceased,

7 Plaintiff,

8 v. 14-CV-244PRM

9 G4S SECURE SOLUTIONS (USA)
10 INC., OFFICER JOSE FLORES AND
ALEJANDRO ROMERO,

11 Defendants.

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13
14 The Videotaped Deposition of JAMES MATTHEWS, taken
15 at the request of the Plaintiff, pursuant to Federal
16 Rules of Civil Procedure, on Monday, October 9, 2017,
17 from 1:46 p.m. to 5:11 p.m., at 109 N. Oregon, Suite
18 700, El Paso, Texas 79901.

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20
21
22
23
24 Reported by:

25 Teri C. Finnegan, TX & NM CSR, RPR

<p>2</p> <p>1 A P P E A R A N C E S</p> <p>2 For the Plaintiff:</p> <p>3 Bradley C. Gage</p> <p>4 Goldberg & Gage</p> <p>5 23002 Victory Boulevard</p> <p>6 Woodland Hills, California 91367</p> <p>7 E-Mail: bgage@goldbergandgage.com</p> <p>8 and</p> <p>9 Oscar Mendez</p> <p>10 Scherr & Legate, PLLC</p> <p>11 109 N. Oregon, 12th Floor</p> <p>12 El Paso, Texas 79901</p> <p>13 E-Mail: omendez@scherrlegate.com</p> <p>14 For Defendants G4S Secure Solutions (USA) Inc. and</p> <p>15 Alejandro Romero:</p> <p>16 Francisco J. Ortega</p> <p>17 Scott Hulse, P.C.</p> <p>18 201 East Main, Suite 1100</p> <p>19 El Paso, Texas 79901</p> <p>20 E-Mail: fort@scotthulse.com</p> <p>21</p> <p>22 For Defendant Officer Jose Flores:</p> <p>23 Jim Darnell</p> <p>24 Jeep Darnell</p> <p>25 310 N. Mesa, Site 212</p> <p>El Paso, Texas 79901</p> <p>E-Mail: jdarnell@jdarnell.com</p> <p>Also present: Noe Aleman (Videographer)</p>	<p>4</p> <p>1 THE VIDEOGRAPHER: Good afternoon.</p> <p>2 Today's date is Monday, October the 9th, 2017. The</p> <p>3 time is 1:46 p.m. This is the video deposition of</p> <p>4 James Wesley Matthews.</p> <p>5 Would the court reporter please swear in</p> <p>6 the witness.</p> <p>7 JAMES MATTHEWS,</p> <p>8 sworn by the Certified Court Reporter, testified as</p> <p>9 follows:</p> <p>10 EXAMINATION</p> <p>11 BY MR. GAGE:</p> <p>12 Q. Good morning -- or good afternoon. Have you</p> <p>13 ever had your deposition taken before?</p> <p>14 A. I did, sir, about 30-something years ago,</p> <p>15 maybe 35 years ago.</p> <p>16 Q. What did that involve?</p> <p>17 A. It was a motor vehicle accident I was involved</p> <p>18 in.</p> <p>19 Q. Any other depositions since then?</p> <p>20 A. No, sir.</p> <p>21 Q. All right. A deposition is a statement under</p> <p>22 oath. It carries with it the same obligation to tell</p> <p>23 the truth as if you were testifying in a court of law.</p> <p>24 Do you understand that?</p> <p>25 A. Understood, sir.</p>																																																
<p>3</p> <p>1 I N D E X</p> <table><tr><td>2 WITNESS:</td><td>PAGE:</td></tr><tr><td>3 JAMES MATTHEWS</td><td></td></tr><tr><td>4 Examination by Mr. Gage</td><td>4</td></tr><tr><td>5 Examination by Mr. Ortega</td><td>108</td></tr><tr><td>6 Further Examination by Mr. Gage</td><td>111</td></tr><tr><td>7</td><td></td></tr><tr><td>8 CHANGES AND SIGNATURE PAGE</td><td>115</td></tr><tr><td>9 CERTIFICATE OF COURT REPORTER</td><td>116</td></tr><tr><td>10</td><td></td></tr><tr><td>11 EXHIBIT DESCRIPTION PAGE:</td><td></td></tr><tr><td>12 No. 68 Supplemental Report of James Wesley</td><td>107</td></tr><tr><td>13 Matthews Dated March 8, 2013,</td><td></td></tr><tr><td>14 Bates Def City 00812 - Def City 814</td><td></td></tr><tr><td>15</td><td></td></tr><tr><td>16 Requested Information:</td><td></td></tr><tr><td>17 Page 22, Line 9</td><td></td></tr><tr><td>18 Page 23, Line 13</td><td></td></tr><tr><td>19</td><td></td></tr><tr><td>20</td><td></td></tr><tr><td>21</td><td></td></tr><tr><td>22</td><td></td></tr><tr><td>23</td><td></td></tr><tr><td>24</td><td></td></tr><tr><td>25</td><td></td></tr></table>	2 WITNESS:	PAGE:	3 JAMES MATTHEWS		4 Examination by Mr. Gage	4	5 Examination by Mr. Ortega	108	6 Further Examination by Mr. Gage	111	7		8 CHANGES AND SIGNATURE PAGE	115	9 CERTIFICATE OF COURT REPORTER	116	10		11 EXHIBIT DESCRIPTION PAGE:		12 No. 68 Supplemental Report of James Wesley	107	13 Matthews Dated March 8, 2013,		14 Bates Def City 00812 - Def City 814		15		16 Requested Information:		17 Page 22, Line 9		18 Page 23, Line 13		19		20		21		22		23		24		25		<p>5</p> <p>1 Q. Today you're being audiotaped, videotaped and</p> <p>2 everything is taken down by a court reporter to your</p> <p>3 left. At the end of the deposition, you'll get a</p> <p>4 transcript that reads kind of like a play, question,</p> <p>5 answer, you'll get a chance to read and review your</p> <p>6 transcript, you can make a change or correction if you</p> <p>7 want to. However, if you do make a change or</p> <p>8 correction, I or any other attorney can comment on it</p> <p>9 at time of trial. Do you understand that?</p> <p>10 A. Yes, sir.</p> <p>11 Q. For that reason it's important that you listen</p> <p>12 closely to all questions asked of you today. If at any</p> <p>13 time anyone asks you a question that you don't</p> <p>14 understand, don't answer, simply tell us that you don't</p> <p>15 understand. Will you do that for us?</p> <p>16 A. Yes, sir.</p> <p>17 Q. Have you understood everything so far?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Is there any reason why you cannot give us</p> <p>20 your best testimony here today?</p> <p>21 A. No reason, sir.</p> <p>22 Q. And reasons can be anything from drugs,</p> <p>23 alcohol, medication, lack of sleep, health issues,</p> <p>24 puppy got stuck in the sink in the morning and you</p> <p>25 spent the day trying to get it out. Anything like</p>
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<p>6</p> <p>1 that?</p> <p>2 A. I am well and healthy, I'm not a drug user or</p> <p>3 alcoholic and I feel okay today.</p> <p>4 (Discussion off the stenographic record.)</p> <p>5 Q. (By Mr. Gage) All right. From time to time,</p> <p>6 you'll hear lawyers making objections. Just let them</p> <p>7 make the objection. Unless your attorney, Francisco,</p> <p>8 instructs you not to answer, then you have to answer</p> <p>9 the question.</p> <p>10 A. Okay.</p> <p>11 Q. It's just we make the objections to preserve</p> <p>12 them.</p> <p>13 And you're testifying under penalty of</p> <p>14 perjury just like in a court of law. You understand</p> <p>15 that?</p> <p>16 A. Yes, sir.</p> <p>17 Q. Did you speak with anyone before your</p> <p>18 deposition even over the lunch break to help you</p> <p>19 prepare for today's deposition?</p> <p>20 A. Yes, sir, I did.</p> <p>21 Q. And who was that?</p> <p>22 A. I spoke with Francisco.</p> <p>23 Q. And is he representing you as your attorney?</p> <p>24 A. I do not know if he's representing me as my</p> <p>25 attorney.</p>	<p>8</p> <p>1 Q. Okay. What did you say?</p> <p>2 A. I told him how I remembered how Daniel Saenz</p> <p>3 had been arrested probably two or three months before</p> <p>4 this incident and how cooperative he was with me</p> <p>5 because I talked to him and he told me that --</p> <p>6 Q. "He" being Daniel or Francisco?</p> <p>7 A. Daniel.</p> <p>8 Q. Okay.</p> <p>9 A. Daniel told me that -- well, he didn't tell</p> <p>10 me. Let me back up.</p> <p>11 I asked him because I always ask people</p> <p>12 whenever they'd be brought into the cells if they</p> <p>13 were -- if they were intoxicated, under the influence</p> <p>14 of any drugs, so that I kind of know what to expect out</p> <p>15 of -- out of their -- their -- whether they be</p> <p>16 cooperative, combative, friendly, unfriendly.</p> <p>17 And I asked Daniel if he was a --</p> <p>18 intoxicated or a drug user, he said yes, that he was a</p> <p>19 cocaine user and -- and he assured me -- he said,</p> <p>20 "Mr. Matthews," he says, "I will" -- he says -- I say,</p> <p>21 "Are you okay?" He says, "Yes," he says, "I'm fine."</p> <p>22 He said, "Don't worry, Mr. Matthews, I will not give</p> <p>23 you any problems, I'll cooperate with you 100 percent."</p> <p>24 And I says, "Good." I says, "If you need something,</p> <p>25 Daniel," I says, "just let me know. If you need to go</p>
<p>7</p> <p>1 Q. All right. What did the two of you discuss</p> <p>2 then?</p> <p>3 A. Just how -- what is involved in a deposition</p> <p>4 and we went over some of the -- some of the highlights</p> <p>5 of this -- this case with Daniel Saenz.</p> <p>6 Q. What kind of highlights did you go through?</p> <p>7 A. More of just a general -- a general thing</p> <p>8 about -- about the incident.</p> <p>9 Q. What did he tell you?</p> <p>10 A. What did he tell me?</p> <p>11 Q. Yes.</p> <p>12 MR. GAGE: Off record.</p> <p>13 THE VIDEOGRAPHER: We're off the record,</p> <p>14 1:49 p.m.</p> <p>15 (A recess was had.)</p> <p>16 THE VIDEOGRAPHER: We are back on the</p> <p>17 record, 1:52 p.m.</p> <p>18 Q. (By Mr. Gage) What did Francisco tell you</p> <p>19 about the case today?</p> <p>20 A. He didn't tell me anything.</p> <p>21 Q. Okay. I thought you went over some of the</p> <p>22 highlights with him.</p> <p>23 A. I -- I went over -- I told him some of the</p> <p>24 highlights that I had -- that I had remembered about</p> <p>25 what -- the occurrence.</p>	<p>9</p> <p>1 to the restroom, you want water" -- that's about all we</p> <p>2 could do there in the cell is tend to some of their --</p> <p>3 their easy needs.</p> <p>4 Q. And was he cooperative with you when he was</p> <p>5 with you --</p> <p>6 A. Yes.</p> <p>7 Q. -- when he was under your care?</p> <p>8 A. Yes, he was -- he was very cooperative.</p> <p>9 Q. Was Daniel ever combative with you when he was</p> <p>10 under your care?</p> <p>11 A. Not that particular day, no, sir.</p> <p>12 Q. What else, if anything, did you and Mr. Ortega</p> <p>13 discuss at lunch?</p> <p>14 A. He kind of gave me the -- the layout as to how</p> <p>15 a deposition goes and then I asked him what the --</p> <p>16 obviously, it's a lawsuit and -- and what the</p> <p>17 allegations of the lawsuit was --</p> <p>18 Q. What did he --</p> <p>19 A. -- and he told me that.</p> <p>20 Q. What did he tell you the allegations were?</p> <p>21 A. Civil rights and something about not -- that</p> <p>22 Daniel Saenz had not been treated fairly.</p> <p>23 Q. Did you provide any information about those</p> <p>24 theories?</p> <p>25 A. No, sir.</p>

<p style="text-align: right;">10</p> <p>1 Q. Anything else that the two of you discussed at 2 lunch today?</p> <p>3 A. No, sir.</p> <p>4 Q. Was anyone else present besides the two of 5 you?</p> <p>6 A. Henry.</p> <p>7 Q. Who's Henry?</p> <p>8 A. P-A-O-L-I.</p> <p>9 Q. Who's Henry Paoli?</p> <p>10 A. Paoli.</p> <p>11 Q. Who is that?</p> <p>12 A. He's an attorney, I -- I guess. Isn't he the 13 attorney for the firm?</p> <p>14 Q. Okay. Did Henry provide you with any 15 information during your lunch?</p> <p>16 A. No, sir, nothing more than -- than what 17 Francisco had -- had told me and what we had discussed 18 about depositions.</p> <p>19 Q. Did you review any documents to prepare for 20 your deposition here today?</p> <p>21 A. No, sir.</p> <p>22 Q. Did you spend about an hour, hour and a half, 23 talking with the lawyers?</p> <p>24 A. I don't know, sir, I didn't look at a clock.</p> <p>25 Q. You must have had lunch pretty close to here,</p>	<p style="text-align: right;">12</p> <p>1 here," so I applied and I did.</p> <p>2 Q. Before G4S you worked at El Paso PD?</p> <p>3 A. No, before G4S I worked at El Paso Independent 4 School District Police Department as a school resource 5 officer. Did that for about three and a half years.</p> <p>6 Q. During what years?</p> <p>7 A. March 2005 or '4, I'm not -- I don't actually 8 remember 100 percent.</p> <p>9 Q. Until September 2008, approximately?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Why did you leave the school district?</p> <p>12 A. To go to work for G4S.</p> <p>13 Q. Do you still work for G4S now?</p> <p>14 A. No, sir, I do not.</p> <p>15 Q. When did you stop working with G4S?</p> <p>16 A. In May of 2015.</p> <p>17 Q. Why did you stop then?</p> <p>18 A. I started working. I had worked -- I looked 19 at it like this. Okay, I'm 64 and a half years old and 20 I can continue to work for another year and a half, did 21 the math, how much would I make if I kept working 22 versus how much would I make right now, and I said, 23 "Well, I can live without a couple of hundred dollars a 24 month more," and so I started drawing Social Security 25 and quit.</p>
<p style="text-align: right;">11</p> <p>1 then. Correct?</p> <p>2 A. No, I didn't eat lunch.</p> <p>3 Q. Oh, they ate lunch and you just spoke to them?</p> <p>4 A. I ate this morning about -- about 10:30 while 5 I was drinking some coffee at McDonald's.</p> <p>6 Q. So they took you to lunch and they didn't even 7 feed you is what you're telling us. Huh?</p> <p>8 A. No, they did not take me to lunch.</p> <p>9 Q. All right. Have you spoken with anyone else 10 about this case other than the two attorneys today at 11 lunch?</p> <p>12 A. No, sir.</p> <p>13 Q. When did you join G4S? Which the complete 14 name is G4S Secure Solutions (USA) Incorporated, but 15 we'll call them G4S today. Okay?</p> <p>16 A. Yes, sir.</p> <p>17 Q. Or the security company.</p> <p>18 When did you join G4S?</p> <p>19 A. In September of 2008.</p> <p>20 Q. What made you join them at that time?</p> <p>21 A. They were hiring -- they had a contract with 22 Border Patrol transporting detainees from -- from 23 Border Patrol and Immigration and I knew some other 24 retired policemen and -- that was working there and 25 they said, you know, "You should come to work over</p>	<p style="text-align: right;">13</p> <p>1 Q. Before working for the school district, where 2 did you work?</p> <p>3 A. I was a Texas state trooper from January 1981 4 until July 2002.</p> <p>5 Q. What rank did you reach as a Texas state 6 trooper?</p> <p>7 A. Senior trooper.</p> <p>8 Q. How does that -- what's the lowest rank at the 9 Texas state troopers?</p> <p>10 A. Well, trooper is -- is -- is the lowest rank, 11 then you have your sergeants, lieutenants, right up the 12 chain of command, but being a trooper was a pretty good 13 job.</p> <p>14 Q. So when did you go from being a trooper to a 15 senior trooper?</p> <p>16 A. I don't -- I don't remember the exact how it 17 goes for -- for years of service. It's based on years 18 of service and I think it's after you get 15 years of 19 service, then you're -- you're a step up to a senior 20 trooper and then there was a little bit more pay. Now 21 I understand there's a significant amount of pay, but 22 then it was -- it was a little bit more pay.</p> <p>23 Q. In 2002, when you left the Texas state 24 troopers, where did you go, if anywhere?</p> <p>25 A. I started substitute teaching at El Paso</p>

<p style="text-align: right;">14</p> <p>1 School District.</p> <p>2 Q. Why did you leave the troopers?</p> <p>3 A. I didn't want to work anymore there.</p> <p>4 Q. Why not?</p> <p>5 A. No particular reason. I just -- I know that</p> <p>6 there's other things that -- that I could do and I</p> <p>7 wanted different challenges, I wanted to experience</p> <p>8 different things in the work field, and so I just says,</p> <p>9 "I'm going to -- I just want to go do something else."</p> <p>10 Q. So you were a substitute teacher from 2002</p> <p>11 until when?</p> <p>12 A. I only did that for about two years.</p> <p>13 Q. Till about 2004?</p> <p>14 A. Somewhere along there, maybe 2005. I was</p> <p>15 probably substituting still whenever -- whenever I went</p> <p>16 to work for the school district police department</p> <p>17 because I was already in the school district system.</p> <p>18 Q. All right. So did you ever work for the</p> <p>19 El Paso PD?</p> <p>20 A. I did, yes.</p> <p>21 Q. When did you do that?</p> <p>22 A. I don't remember the exact month, but 1975</p> <p>23 until December -- December 1980 or I probably stayed on</p> <p>24 their -- their books until January 1981.</p> <p>25 Q. Why did you leave?</p>	<p style="text-align: right;">16</p> <p>1 Q. Would you pull people over for driving under</p> <p>2 the influence?</p> <p>3 A. Yes.</p> <p>4 Q. Were you a drug recognition expert?</p> <p>5 A. Expert, no, sir.</p> <p>6 Q. When you would pull someone over for driving</p> <p>7 under the influence, would you give them like a breath</p> <p>8 test, a GCI or whatever they call them?</p> <p>9 A. They didn't have that back in those days.</p> <p>10 Q. How would you develop if they were under the</p> <p>11 influence? Field sobriety test?</p> <p>12 A. Do -- do a field sobriety, you know, the</p> <p>13 one-legged stand and see if you can walk a fairly</p> <p>14 decent straight line, bloodshot eyes, odor about you,</p> <p>15 little simple things.</p> <p>16 Q. What was the blood alcohol limit back then?</p> <p>17 A. 0.10.</p> <p>18 Q. Would they -- how would they determine the</p> <p>19 blood level of alcohol on a person when you were</p> <p>20 pulling people over for DUI?</p> <p>21 A. There was an intoxilyzer available for us to</p> <p>22 use.</p> <p>23 Q. In the field or at the station?</p> <p>24 A. At the station.</p> <p>25 Q. So people would blow into it at the station</p>
<p style="text-align: right;">15</p> <p>1 A. I always wanted to go to work for the state, I</p> <p>2 wanted to be a state trooper.</p> <p>3 Q. What was your rank when you left El Paso PD?</p> <p>4 A. Corporal. I -- I had two chevrons, so I</p> <p>5 guess -- I guess that would -- because I got those</p> <p>6 after five years.</p> <p>7 Q. Were you a training officer at El Paso PD?</p> <p>8 A. No, sir.</p> <p>9 Q. Is a corporal a supervisor there?</p> <p>10 A. No, it just means that you have -- then -- I</p> <p>11 don't know what it is now -- it just means that you had</p> <p>12 been there five years.</p> <p>13 Q. What's different between working for the state</p> <p>14 and the city?</p> <p>15 A. Oh, a world of difference.</p> <p>16 Q. What were a couple of the main things?</p> <p>17 A. Main thing is that your job as -- as a highway</p> <p>18 patrolman is rural traffic enforcement. You've got to</p> <p>19 remember the speed limit was 55 back in those days so</p> <p>20 nobody liked you, you know, because your job was to go</p> <p>21 out and write tickets. And that's what -- that's what</p> <p>22 we did. Accident investigations. You stop a motorist,</p> <p>23 you develop some probable cause and if -- you might</p> <p>24 find a stolen vehicle or, you know, something like</p> <p>25 that, some criminal activity.</p>	<p style="text-align: right;">17</p> <p>1 and that would give you the alcohol level. Correct?</p> <p>2 A. Yes, sir.</p> <p>3 Q. When Daniel Saenz was in your custody in March</p> <p>4 of 2013, did you check him to see what his blood</p> <p>5 alcohol level was or what his level, if any, of drugs</p> <p>6 was in his system?</p> <p>7 A. No, sir. That was not my job.</p> <p>8 Q. Did you learn of anybody doing that at the</p> <p>9 time to see if he was under the influence of anything?</p> <p>10 MR. JIM DARNELL: Object, hearsay.</p> <p>11 Q. (By Mr. Gage) Go ahead.</p> <p>12 A. To the -- no, to the best of my knowledge, I</p> <p>13 do not know.</p> <p>14 Q. Did you conduct any field sobriety tests on</p> <p>15 Daniel at all when he was under your custody in March</p> <p>16 of 2013 to see if he was under the influence of any</p> <p>17 drugs or alcohol?</p> <p>18 MR. ORTEGA: Objection, form.</p> <p>19 A. No, sir.</p> <p>20 Q. (By Mr. Gage) Go ahead.</p> <p>21 A. No, sir, that was not my job.</p> <p>22 Q. Did you just happen to observe anything about</p> <p>23 Daniel with respect to his eyes, his walking, any</p> <p>24 alcoholic odors to see if he was under the influence of</p> <p>25 any drugs or alcohol from your personal observation?</p>

<p style="text-align: right;">18</p> <p>1 A. I did not smell any alcohol on him. I know 2 that I asked him if -- if -- I said, "Danny, do you 3 remember me from when you were here a few months ago?" 4 and he never would actually acknowledge or respond to 5 me. Wanting him to -- because I had such a good 6 rapport with him before. 7 Sorry. 8 Q. Something about this is emotional it sounds 9 like. 10 A. Well, I thought -- I didn't think he was a 11 terribly bad person. My first -- you know, in -- in 12 talking with him because he was so polite and cordial 13 and cooperative, "Anything you want, Mr. Matthews," and 14 I believed him, I really did. Just, you know, this 15 time he was -- it was like he wasn't a human, you know. 16 His -- his demeanor and his -- he was just -- I had 17 never seen anybody under -- under the influence of 18 something -- what it -- what it was I do not know, but 19 I said, "This -- this guy's not" -- you know, "he's not 20 all there." 21 Q. Were his eyes bloodshot? 22 A. I don't remember. I really don't remember. 23 Q. When you have a patient that -- or a prisoner 24 that doesn't seem to be all there psychologically, are 25 there things that you were taught you should do, like</p>	<p style="text-align: right;">20</p> <p>1 training from G4S regarding the care for prisoners? 2 MR. ORTEGA: Objection, form. 3 A. Answer? 4 Q. (By Mr. Gage) Yes. 5 A. Just your -- your standard CPR, you know, and 6 that's about the only thing that really comes to my 7 mind real quick, you know. 8 Q. When you joined G4S, did they give you any 9 kind of training? 10 A. Yes, sir. 11 Q. What did they tell you? 12 A. Well, that -- can you narrow it down to 13 something in particular? 14 Q. Sure. Yeah, that really wasn't the best of 15 questions. I'll withdraw it. 16 What areas did they train you in when you 17 joined G4S? I'm talking categories, use of force, for 18 example, or medical attention for a prisoner, whatever 19 those categories were? 20 A. You know, sir, I cannot -- I cannot tell 21 you -- give you anything in particular that -- that -- 22 that -- that we went through that training. I do 23 not -- I -- I can't think of anything in -- in -- just 24 in particular about it. 25 Q. Was there a course that G4S provided to you to</p>
<p style="text-align: right;">19</p> <p>1 to get them medical treatment at that point? 2 MR. ORTEGA: Objection, form. 3 Q. (By Mr. Gage) Go ahead. 4 A. Well, now, you know, common sense is going to 5 tell you and -- and -- because -- that -- that -- that 6 if someone needs -- needs medical attention, you're 7 going to seek it. But our job was -- was not in that. 8 He was not in my care and custody right there. My job 9 was not to -- to seek medical for him. That was the -- 10 that was the police department's job to -- to tend to 11 him because they had -- whenever they -- and I think 12 they arrested him at a hospital for an assault on a 13 peace officer, so they -- they should have recognized 14 or knew if he needed any -- any type of medical 15 attention. 16 Q. When you say "they" should have recognized if 17 he needed medical attention, you're talking about the 18 employees and officers from the El Paso PD. Correct? 19 A. Yes, sir. 20 Q. When you worked for G4S security, if you saw a 21 patient or prisoner that appeared to need medical 22 attention, were you allowed to call for aid for them? 23 A. Yes. 24 MR. ORTEGA: Objection, form. 25 Q. (By Mr. Gage) Did you receive any kind of</p>	<p style="text-align: right;">21</p> <p>1 make sure that you received training as a security 2 guard? 3 A. Yes, sir. 4 Q. What was that course called? 5 A. I don't remember. 6 Q. How many hours long was that course? 7 A. Hours? It might have been four or five 8 weeks -- or maybe it was only three weeks. I think 9 maybe it was only three weeks. 10 Q. Where did you have that course? 11 A. Here in El Paso. 12 Q. Was it at the facility of G4S, like their 13 headquarters, or where was it? 14 A. No, it was at a -- at a hotel along Interstate 15 10 westbound, just a little bit west of Bassett Center, 16 but I do not remember the name of the -- of the -- they 17 rented a room and set tables up and, you know, we 18 were -- we were sitting around some tables in a room. 19 Q. How many people were there for the training? 20 A. 15 to 17 sticks in my mind. 21 Q. Who was doing the training? 22 A. There was a gentleman, he was a captain with 23 G4S. I do not remember his name. 24 Q. Did you receive any kind of written materials 25 with the training?</p>

<p style="text-align: right;">22</p> <p>1 A. Yes, sir.</p> <p>2 Q. Do you still have them?</p> <p>3 A. Probably not.</p> <p>4 Q. Do you recall what they were called, those</p> <p>5 written materials?</p> <p>6 A. Not right offhand I don't -- I don't remember.</p> <p>7 I remember we -- we got a bunch of different type of</p> <p>8 handout material.</p> <p>9 Q. When this deposition is over, I'm going to</p> <p>10 have a blank put in the transcript here and what I'd</p> <p>11 like you to do is if you go home and you happen to see</p> <p>12 any training, you can just say "I still have the</p> <p>13 documents" or "I do not have the documents." If you</p> <p>14 have them, I want to preserve them because I'll</p> <p>15 probably ask you to produce them.</p> <p>16 A. All right.</p> <p>17 Q. So in the beginning of the transcript, I like</p> <p>18 a thing to say Information Requested or Items Marked,</p> <p>19 either way, and we'll just have this page and line</p> <p>20 reference. So when you see your transcript, you'll</p> <p>21 know where that is because the front page will indicate</p> <p>22 it.</p> <p>23 A. Okay.</p> <p>24 Q. And there may be other times I'll ask to mark</p> <p>25 that for some reason.</p>	<p style="text-align: right;">24</p> <p>1 2:17 p.m.</p> <p>2 (A recess was had.)</p> <p>3 THE VIDEOGRAPHER: We're back on the</p> <p>4 record, 2:24 p.m.</p> <p>5 Q. (By Mr. Gage) When you worked for G4S, did</p> <p>6 that company provide you with any kind of insurance in</p> <p>7 case there was a lawsuit against the company that</p> <p>8 you're aware of?</p> <p>9 A. No, sir.</p> <p>10 Q. Did the company have insurance?</p> <p>11 A. I do not know.</p> <p>12 Q. Do you know what kind of training Mr. Romero</p> <p>13 had when he worked for G4S?</p> <p>14 A. No, sir, I do not know.</p> <p>15 Q. Did he ever tell you about his training at</p> <p>16 all?</p> <p>17 A. No, sir.</p> <p>18 Q. I think earlier you had mentioned that there</p> <p>19 was some kind of a contract between G4S and the El Paso</p> <p>20 Police Department that you were aware of. Is that</p> <p>21 accurate?</p> <p>22 A. Yes, sir.</p> <p>23 Q. How did you know about that contract?</p> <p>24 A. The -- the Border Patrol contract was -- we</p> <p>25 were not moving -- we were not moving enough people --</p>
<p style="text-align: right;">23</p> <p>1 A. Sure.</p> <p>2 Q. It will probably just involve other documents</p> <p>3 I might want you to look for so you'll know what that</p> <p>4 is.</p> <p>5 Did you receive any kind of a guard card</p> <p>6 or license as a result of your training?</p> <p>7 A. Well, our -- I know I had a -- a card that</p> <p>8 allowed me to carry a firearm in Texas and one for</p> <p>9 New Mexico and I know I had a card that -- from G4S</p> <p>10 that probably said I was an employee of G4S.</p> <p>11 Q. Do you still have any of those cards?</p> <p>12 A. I do not know, but probably not.</p> <p>13 Q. All right. Same thing, we'll have that</p> <p>14 marked. If you have any of those cards, preserve them,</p> <p>15 and you can just -- we'll leave a space and you can</p> <p>16 say, "I have the following cards as listed."</p> <p>17 A. Yes.</p> <p>18 Q. And we'll deal with getting it from you.</p> <p>19 A. Yes, sir.</p> <p>20 Q. At the end of the deposition, I would like</p> <p>21 your home address to be provided off the record to the</p> <p>22 court reporter so she'll have that and --</p> <p>23 MR. GAGE: Let's go off the record a</p> <p>24 second.</p> <p>25 THE VIDEOGRAPHER: We're off the record,</p>	<p style="text-align: right;">25</p> <p>1 enough of Border Patrol's detainees because they were</p> <p>2 not apprehending them along the border, so as the</p> <p>3 numbers were falling off, then -- we had at one time 85</p> <p>4 employees, transportation officers, and I was one of</p> <p>5 the sergeants in the office running -- and -- and so</p> <p>6 there was some -- some of the -- the -- the latest new</p> <p>7 hires got laid off and then five of us sergeants lost</p> <p>8 our jobs, but they kept me on as a trans- -- as a</p> <p>9 transportation officer. And then I also knew -- I knew</p> <p>10 eventually that I was going to be out of -- out of a</p> <p>11 job with this contract, which -- which I knew that, so</p> <p>12 when I hired on, I knew some day it's going to just</p> <p>13 kind of dwindle way.</p> <p>14 Q. That's the Border Patrol contract?</p> <p>15 A. Yes. The Border Patrol contract, yes, sir.</p> <p>16 Q. Okay. And then what happened?</p> <p>17 A. And then -- but I also knew that -- that --</p> <p>18 that they were -- that they were going to start up a</p> <p>19 contract with the El Paso Police Department maintaining</p> <p>20 their cell area, watching over the prisoners in the</p> <p>21 cell area, and transporting the people that the -- the</p> <p>22 detainees from the police department.</p> <p>23 Q. With respect to watching the prisoners in the</p> <p>24 cell for El Paso PD, what specific job duties were you</p> <p>25 told you had?</p>

<p style="text-align: right;">26</p> <p>1 A. The main thing that was -- to answer your 2 question, what I was told -- I don't -- I don't 3 remember anything in particular that I was told that 4 this is what your -- your duties are, even though we 5 probably were told, but I just -- I just don't remember 6 what they were, but it amounted to -- to -- if they 7 needed water, they needed to go to the restroom, 8 then -- then you escorted them to the water fountain or 9 to the restroom.</p> <p>10 Q. What --</p> <p>11 A. And we fingerprinted them -- excuse me -- 12 on -- what they had is a -- they had a scanning machine 13 that we -- that we would take fingerprints and palm 14 prints.</p> <p>15 Q. What were you supposed to do if the prisoners 16 tried to resist once you were taking them to get water 17 or to the restroom?</p> <p>18 MR. ORTEGA: Objection, form.</p> <p>19 A. I never had any of them try to resist, so I 20 never -- I never ran into that.</p> <p>21 Q. (By Mr. Gage) Were you given any instructions 22 of what you should do if you were with a prisoner that 23 tried to resist while working for G4S?</p> <p>24 A. Yes. You would call one of the policemen.</p> <p>25 Q. Were you ever, while working for G4S, told</p>	<p style="text-align: right;">28</p> <p>1 MR. ORTEGA: Objection, form.</p> <p>2 A. Well, I'm just telling you that I cannot 3 remember what, if anything in particular, that -- that 4 we were told to do. Okay?</p> <p>5 Q. (By Mr. Gage) Are you aware of anybody at G4S 6 being told by the company what the G4S employees should 7 do if they're with a police officer and a prisoner is 8 resisting?</p> <p>9 MR. ORTEGA: Objection, form, calls for 10 speculation and hearsay.</p> <p>11 A. I do not have a remembrance, a recollection, 12 of anything in particular there.</p> <p>13 Q. (By Mr. Gage) Were there any written 14 documents that you ever received while working for G4S 15 advising you what you should do if you were with a 16 police officer and a prisoner was resisting?</p> <p>17 MR. ORTEGA: Objection, form.</p> <p>18 A. It -- it -- it sounds like you're asking me 19 the same question again, if there's anything in 20 particular, and I -- and I can't tell you -- all I can 21 tell you is that I don't have an independent 22 recollection of anything in particular that -- that I 23 should do.</p> <p>24 Q. (By Mr. Gage) It is quite similar. One I was 25 asking if you were given information orally, the other</p>
<p style="text-align: right;">27</p> <p>1 what you should do when a prisoner is resisting until a 2 police officer arrived?</p> <p>3 A. No, sir.</p> <p>4 Q. Once a police officer arrived, if you had a 5 resisting prisoner while working at G4S, were you told 6 what you should do to help the police officer in 7 restraining that prisoner that was resisting?</p> <p>8 MR. ORTEGA: Objection, form, assumes 9 facts not in evidence.</p> <p>10 Q. (By Mr. Gage) Go ahead.</p> <p>11 A. Repeat your question, please.</p> <p>12 Q. Sure. Were you told what you should do if 13 there was a prisoner who was resisting -- a police 14 officer comes to help you -- what were you supposed to 15 do as a G4S security employee?</p> <p>16 MR. ORTEGA: Same objections.</p> <p>17 A. I can't -- I can't honestly say that I was 18 told, "This is what you will do if -- if -- if an 19 officer needs help." Okay?</p> <p>20 Q. (By Mr. Gage) All right. So if I'm 21 understanding you correctly, you're not aware of G4S 22 providing any of its employees with training or 23 instructions on what to do if you're with a police 24 officer and there's a prisoner who is resisting and the 25 officer needs help. Is that a true statement?</p>	<p style="text-align: right;">29</p> <p>1 I was asking if you received information in writing. I 2 take it your answer is you don't recall receiving 3 information orally or in writing about what to do in a 4 situation of a prisoner resisting and being with an 5 officer?</p> <p>6 A. That is correct, yes, sir. Just leave it at 7 that.</p> <p>8 Q. In your career in law enforcement, have you 9 seen or become aware of the fact that sometimes 10 prisoners would resist when they were in custody with 11 an officer?</p> <p>12 MR. ORTEGA: Objection, form.</p> <p>13 A. Have I seen prisoners -- yes.</p> <p>14 Q. (By Mr. Gage) In other agencies that you 15 worked in, because of the fact that it was foreseeable 16 that a prisoner might resist, did you receive training 17 on what to do in connection with the resisting 18 prisoner?</p> <p>19 A. I cannot tell you that, yes, I did receive 20 training because I don't remember if I received any 21 particular training.</p> <p>22 Q. Specifically I want to ask you about when you 23 worked for El Paso Police Department. Is it true that 24 when you worked for the El Paso Police Department, you 25 do not recall receiving any training as to what you</p>

<p>30</p> <p>1 should do in connection with a resisting prisoner under 2 your care and custody?</p> <p>3 A. Well, going back to 1975, I remember vaguely 4 that they would say use necessary force.</p> <p>5 Q. Did they explain to you at the El Paso PD what 6 necessary force consisted of?</p> <p>7 A. Well, if you're asking me for an independent 8 recollection, sir, I do not have an independent 9 recollection of what necessary force is. But, yet, 10 I -- I -- I feel like I know what necessary force is.</p> <p>11 Q. What is -- what do you know necessary force to 12 be, then?</p> <p>13 A. Use just enough force to make and affect the 14 arrest.</p> <p>15 Q. It sort of sounds like you're talking about a 16 use of force continuum. So if you have a person who is 17 saying, "Get away, I don't want to be arrested," then 18 you would use that force of command presence, a stern 19 voice, "Turn around, listen to me now, put your hands 20 behind your back," essentially. Correct?</p> <p>21 MR. ORTEGA: Objection, form, lacks 22 foundation.</p> <p>23 MR. JIM DARNELL: Same objection.</p> <p>24 A. Yes, sir.</p> <p>25 Q. (By Mr. Gage) On the other hand, if you're</p>	<p>32</p> <p>1 A. Yes, sir. Yes, sir.</p> <p>2 Q. It sounds like in your 35 years of experience, 3 you developed a way to deal with people and diffuse 4 potentially violent situations just with your 5 personality, your words and your presence. Is that 6 accurate?</p> <p>7 MR. ORTEGA: Objection, form.</p> <p>8 A. Yes.</p> <p>9 Q. (By Mr. Gage) As an example, Daniel Saenz, 10 two times he was in custody that you were at least 11 around him. One time you were the person who basically 12 had control over him.</p> <p>13 A. Uh-huh.</p> <p>14 Q. You spoke to him, he cooperated with you, you 15 didn't have to use any violence or force at him at all. 16 Accurate?</p> <p>17 A. Yes.</p> <p>18 Q. Second time, at a time when Daniel Saenz was 19 not with you, you weren't even there, all of a sudden, 20 the individuals that were with him, he ends up getting 21 shot and killed. Right?</p> <p>22 MR. JIM DARNELL: Object, facts not in 23 evidence.</p> <p>24 MR. ORTEGA: Same objection.</p> <p>25 Q. (By Mr. Gage) Go ahead.</p>
<p>31</p> <p>1 with a suspect who was struggling a bit, possibly 2 trying to hit you or kick you or grab you, then you 3 could use an amount of force that would counter that, 4 you could punch them, you could grab them, you could 5 put them in a wrist lock, you could tackle them, some 6 way to gain control using an amount of force 7 appropriate based on the force they're using.</p> <p>8 Is that accurate?</p> <p>9 MR. ORTEGA: Objection, form, foundation, 10 calls for speculation.</p> <p>11 MR. JIM DARNELL: Same objection.</p> <p>12 A. Well, you used -- you used "punch." I know 13 I've never punched -- I've never had to punch anybody. 14 Okay?</p> <p>15 Q. (By Mr. Gage) So even if -- have you in your 16 life ever had a suspect that was resisting you where 17 they were using their hands or feet sort of to fight 18 with you or try to punch you or kick you, things of 19 that sort?</p> <p>20 A. In my career?</p> <p>21 Q. Yes.</p> <p>22 A. In the 35 years, I'm sure that I have. I'm 23 sure I have.</p> <p>24 Q. And you were able to diffuse that situation 25 without even having to resort to a punch. Correct?</p>	<p>33</p> <p>1 A. No, sir. No, sir, that's not -- I don't 2 believe that's accurate what -- what you stated.</p> <p>3 Q. What's not accurate about the fact that he was 4 shot and killed when you weren't present?</p> <p>5 A. Well, that -- of course we know that's a true 6 statement.</p> <p>7 Q. Right.</p> <p>8 A. You know. But I -- I can't say that I 9 wholeheartedly agree with your -- your question.</p> <p>10 Q. Well, when you were with Daniel that day of 11 March 8th, 2013, you thought he was a different 12 person --</p> <p>13 A. Yes.</p> <p>14 Q. -- he was a little combative. Right?</p> <p>15 A. Yes.</p> <p>16 Q. Did you have to punch him at all?</p> <p>17 A. No, sir.</p> <p>18 Q. Did you have to strike him at all?</p> <p>19 A. No. No, sir.</p> <p>20 Q. Did you ever think you should pull out a gun 21 and shoot him?</p> <p>22 A. No, sir.</p> <p>23 Q. All right. So when he was under your custody 24 on March 8th, 2013, even though he was unruly, you were 25 able to control him without causing him any physical</p>

<p>34</p> <p>1 violence. Correct?</p> <p>2 MR. ORTEGA: Objection, form.</p> <p>3 A. I was not getting the cooperation from him</p> <p>4 wholeheartedly that I felt like that he could gave me,</p> <p>5 that he gave me the last time he was arrested.</p> <p>6 Q. (By Mr. Gage) And even though he didn't give</p> <p>7 you the same cooperation as before, did you use any</p> <p>8 physical violence on him?</p> <p>9 A. No, sir.</p> <p>10 Q. That's what I was getting at, basically.</p> <p>11 A. Okay.</p> <p>12 Q. One of the things that you've noticed, I bet,</p> <p>13 in the 35 years that you've been involved in law</p> <p>14 enforcement is different officers would treat a person</p> <p>15 in custody differently. Correct?</p> <p>16 A. Yes, sir.</p> <p>17 Q. The way that they would treat that person in</p> <p>18 custody frequently influenced whether the person in</p> <p>19 custody was a little bit resistant or extremely</p> <p>20 combative. Agreed?</p> <p>21 MR. ORTEGA: Objection, form.</p> <p>22 A. I cannot agree with you on that, no, sir.</p> <p>23 Q. (By Mr. Gage) Okay. It sounds to me like</p> <p>24 you're the kind of an officer who in 35 years had many</p> <p>25 people that you came in contact with, engaged in</p>	<p>36</p> <p>1 I was a -- on the PD that I arrested somebody for</p> <p>2 possession of a usable quantity of marijuana.</p> <p>3 When I was with the highway patrol, I</p> <p>4 never -- never put anybody in jail for under the</p> <p>5 influence of any drugs, it was always alcohol. I did</p> <p>6 not know -- until I got to work with the -- with the El</p> <p>7 Paso Police Department, I did not know the ugly effects</p> <p>8 that -- that some of these drugs had on human beings.</p> <p>9 Q. I understand.</p> <p>10 MR. GAGE: I move to strike as</p> <p>11 nonresponsive, but I understand.</p> <p>12 Q. (By Mr. Gage) Even in the '70s, though, there</p> <p>13 was the drug called PCP --</p> <p>14 A. Uh-huh.</p> <p>15 Q. -- or angel's dust or elephant tranquilizer,</p> <p>16 something like that. Right?</p> <p>17 A. I can remember PCP. I remember the -- the</p> <p>18 letters.</p> <p>19 Q. All right. And I know many police officers,</p> <p>20 even in the '70s, encountered people on PCP and having</p> <p>21 all kinds of terrible altercations. Did you experience</p> <p>22 that ever when you were in law enforcement?</p> <p>23 A. No, sir.</p> <p>24 Q. All right. Did you ever see any toxicology</p> <p>25 reports indicating that Daniel Saenz was under the</p>
<p>35</p> <p>1 potential criminal acts. Is that correct?</p> <p>2 A. Yes, sir.</p> <p>3 Q. You've had to arrest people, put them in</p> <p>4 custody, probably so many times you can't count in your</p> <p>5 35-year career. Right?</p> <p>6 A. Yes, sir.</p> <p>7 Q. Yet because of the demeanor that you had, the</p> <p>8 way that you would treat those people in custody, even</p> <p>9 people with lots of arrests or bad people, somehow you</p> <p>10 were able to keep them under enough control that you</p> <p>11 never needed to strike them, hit him them, shoot them,</p> <p>12 things of that sort. Right?</p> <p>13 MR. ORTEGA: Objection, form.</p> <p>14 A. Yes, sir.</p> <p>15 Q. (By Mr. Gage) And that's my point is that you</p> <p>16 personally found a way to deal with potentially</p> <p>17 combative suspects, calm them down, keep them under</p> <p>18 control, so you could do your job without having to</p> <p>19 shoot them, kill them or beat them. Right?</p> <p>20 MR. ORTEGA: Objection, form.</p> <p>21 A. Yes. But let me also say that when I -- when</p> <p>22 I was out there working, you didn't have these hardcore</p> <p>23 drugs out there like you do now.</p> <p>24 Q. (By Mr. Gage) Right.</p> <p>25 A. And, my goodness, it was -- it -- it was till</p>	<p>37</p> <p>1 influence of any drugs at any time in his life?</p> <p>2 A. No, sir.</p> <p>3 Q. When he got arrested a few months earlier, do</p> <p>4 you know what that arrest was for?</p> <p>5 A. No, sir, I -- I can't remember exactly.</p> <p>6 Q. Do you know if he was convicted after that</p> <p>7 arrest or not?</p> <p>8 A. No, sir, I do not know.</p> <p>9 Q. How were you assigned to transport Daniel</p> <p>10 Saenz on March 8th, 2013.</p> <p>11 A. It was -- it was my job to -- to transport --</p> <p>12 do the transporting of prisoners.</p> <p>13 Q. Were there any other prisoners that you were</p> <p>14 also transporting at that time?</p> <p>15 A. There was another gentleman that we</p> <p>16 transported.</p> <p>17 Q. Do you recall his name?</p> <p>18 A. I do not remember.</p> <p>19 Q. Do you recall what he looked like at all?</p> <p>20 A. White male, maybe a little bit on the heavyside</p> <p>21 side, maybe early 60s.</p> <p>22 Q. Do you remember what he was arrested for?</p> <p>23 A. No, sir, I do not.</p> <p>24 Q. Where did you get that other prisoner? Was it</p> <p>25 from the Pebble Regional --</p>

<p>38</p> <p>1 A. Hills.</p> <p>2 Q. -- Pebble Hills regional center or was it</p> <p>3 somewhere else?</p> <p>4 A. I do not remember if we loaded him at Pebble</p> <p>5 Hills or down at the -- at the substation at Mission</p> <p>6 Valley.</p> <p>7 Q. When you loaded prisoners from Mission Valley</p> <p>8 and transported them, would you have any El Paso police</p> <p>9 officers with you?</p> <p>10 A. Yes, sir.</p> <p>11 Q. When you had this prisoner, was there an</p> <p>12 El Paso police officer with you, assuming he came from</p> <p>13 Mission Valley?</p> <p>14 A. I do not recall.</p> <p>15 Q. If there had been a police officer from</p> <p>16 El Paso PD with you, would you have put that into any</p> <p>17 kind of statement as to who was present with you at</p> <p>18 that point?</p> <p>19 A. No, sir.</p> <p>20 MR. ORTEGA: Objection, calls for</p> <p>21 speculation.</p> <p>22 Q. (By Mr. Gage) And why not?</p> <p>23 A. No need for it.</p> <p>24 Q. Okay. Did you ever transport any prisoners</p> <p>25 for the El Paso Police Department without having an</p>	<p>40</p> <p>1 what would you do to control them or secure them in</p> <p>2 that respect?</p> <p>3 MR. ORTEGA: Objection, form.</p> <p>4 A. Well, I -- that's hard for me to answer your</p> <p>5 question because I -- I don't know that I understand</p> <p>6 and -- and -- what would be wrong with the prisoner</p> <p>7 that I would need to -- to stop? I don't know that I</p> <p>8 would stop unless they were -- were injuring</p> <p>9 themselves.</p> <p>10 Q. (By Mr. Gage) Were you trained at all by G4S</p> <p>11 as to what you should do if you were transporting a</p> <p>12 prisoner who appeared to be injuring themselves?</p> <p>13 A. Was I trained? I cannot answer that. I don't</p> <p>14 remember.</p> <p>15 Q. You don't remember receiving any training on</p> <p>16 that subject, do you?</p> <p>17 A. Yeah, that is correct, I don't remember what</p> <p>18 kind of training we received.</p> <p>19 Q. When you were transporting Daniel Saenz to</p> <p>20 jail from the Pebble Hills regional center, did he at</p> <p>21 any time appear to you to be trying to injure himself</p> <p>22 in the van?</p> <p>23 A. I can't remember a -- anything in particular.</p> <p>24 I know I -- I was driving and I cannot tell you that he</p> <p>25 did or did not try to injure himself.</p>
<p>39</p> <p>1 El Paso officer with you?</p> <p>2 A. Explain your -- what you mean by having an</p> <p>3 El Paso policeman with us.</p> <p>4 Q. First, you would transport prisoners in a van</p> <p>5 or car of some kind. Is that correct?</p> <p>6 A. A van.</p> <p>7 Q. A van. Can you describe the inside of the</p> <p>8 van.</p> <p>9 A. Just a van that had steel walls and benches,</p> <p>10 steel benches on both sides, a divider in the middle,</p> <p>11 seat belts, air conditioner, window that they could see</p> <p>12 out the -- out the back.</p> <p>13 Q. Was there a way to secure a prisoner to those</p> <p>14 benches by handcuffs or other means?</p> <p>15 A. Seat belt. There was a smaller compartment on</p> <p>16 the right-hand side behind the -- the driver -- behind</p> <p>17 the passenger of -- in the cab. Because these were one</p> <p>18 ton -- one-ton vans. And there was a smaller</p> <p>19 compartment there that you could put -- put one or two</p> <p>20 people in.</p> <p>21 Q. Could they be secured more securely in that</p> <p>22 location?</p> <p>23 A. They -- everybody was secured the same with</p> <p>24 seat belts.</p> <p>25 Q. If a passenger started to struggle at all,</p>	<p>41</p> <p>1 Q. If Daniel was trying to injure himself in the</p> <p>2 van at all by banging his head against the walls or</p> <p>3 anything, what would you have done?</p> <p>4 MR. ORTEGA: Objection, calls for</p> <p>5 speculation.</p> <p>6 MR. JIM DARNELL: Same objection.</p> <p>7 Q. (By Mr. Gage) Go ahead.</p> <p>8 A. I would have tak- -- I would have taken the</p> <p>9 necessary action to keep him from being injured.</p> <p>10 Q. What would that consist of?</p> <p>11 A. Whatever was necessary.</p> <p>12 Q. So would you stop the van and try to</p> <p>13 reposition himself in some way?</p> <p>14 A. Would I have? Yes.</p> <p>15 Q. Why would you do that?</p> <p>16 A. To keep him from getting injured.</p> <p>17 Q. Is that part of one of your duties of your job</p> <p>18 as you understood it was to try to make sure the</p> <p>19 prisoners under your custody did not get injured?</p> <p>20 A. Well, again, all I can tell you is -- is what</p> <p>21 I know what -- what I would have done in -- in good</p> <p>22 conscious of taking care of somebody in my custody. I</p> <p>23 would not want somebody to get injured.</p> <p>24 Q. Because that's just part of being a decent</p> <p>25 human being?</p>

<p style="text-align: right;">42</p> <p>1 MR. ORTEGA: Objection, form.</p> <p>2 MR. JIM DARNELL: Same objection.</p> <p>3 A. I think that that's a fair statement.</p> <p>4 Q. (By Mr. Gage) When you've worked in law</p> <p>5 enforcement at any time, were you also taught that in</p> <p>6 law enforcement, if you have a prisoner in your</p> <p>7 custody, that you have an obligation to take care of</p> <p>8 their medical needs?</p> <p>9 MR. ORTEGA: Objection, form.</p> <p>10 A. Your question was I trained for that?</p> <p>11 Q. (By Mr. Gage) Correct.</p> <p>12 A. Well, I can tell you that I don't have an</p> <p>13 independent recollection of it.</p> <p>14 Q. Is that something you generally knew?</p> <p>15 Regardless of if you had an independent recollection or</p> <p>16 not, you knew in general that as a law enforcement</p> <p>17 officer, you had an obligation to protect --</p> <p>18 A. Common -- common sense would tell you that you</p> <p>19 needed to take care of that.</p> <p>20 Q. So -- because we kind of start talking over</p> <p>21 one another, we need to --</p> <p>22 A. Okay.</p> <p>23 Q. -- slow down.</p> <p>24 Common sense told you that when you had a</p> <p>25 prisoner in your custody, you had an obligation to take</p>	<p style="text-align: right;">44</p> <p>1 where he could have injured himself.</p> <p>2 Q. When you picked up Daniel at the Pebble Hills</p> <p>3 Regional Command Center and put him into the van, you</p> <p>4 had a chance to observe his head, his face. Correct?</p> <p>5 A. Yes, sir.</p> <p>6 Q. Was he bleeding at all at that point when he</p> <p>7 got taken into the van?</p> <p>8 A. No, sir.</p> <p>9 Q. Did he have any cuts or marks that you saw on</p> <p>10 his face or head at all?</p> <p>11 A. Not that I knew of.</p> <p>12 Q. Is it a true statement that you did not see</p> <p>13 any injuries to Daniel's head or face at the time that</p> <p>14 you put him into the van to take him from regional</p> <p>15 hills -- or rather -- withdraw.</p> <p>16 Is it a true statement that did you not</p> <p>17 see any injury to Daniel anywhere on his body when you</p> <p>18 picked him up from the Pebble Hills Regional Command</p> <p>19 Center to take him to jail?</p> <p>20 A. That is correct.</p> <p>21 Q. After stopping the van at the jail, Daniel was</p> <p>22 taken into the jail through the front door. Correct?</p> <p>23 A. Front door, no, sir.</p> <p>24 Q. Where was he taken into, through what</p> <p>25 facility?</p>
<p style="text-align: right;">43</p> <p>1 care of their medical needs. Correct?</p> <p>2 A. Yes, sir.</p> <p>3 Q. And did you ever observe Daniel banging his</p> <p>4 head on the wall in the van at all as you were</p> <p>5 transporting him?</p> <p>6 A. A good -- a good -- a good memory of that, no,</p> <p>7 I don't have an absolute perfect memory of it, but it</p> <p>8 seems like that -- that -- that he might have been --</p> <p>9 been -- might have hit his head a time or two. But I</p> <p>10 remember him more of talking -- talking to people that</p> <p>11 weren't there.</p> <p>12 Q. With respect to him hitting his head a time or</p> <p>13 two, what do you recall Daniel was hitting his head on?</p> <p>14 A. I don't know. It could have been the wall or</p> <p>15 it could have been the -- the fiberglass window that</p> <p>16 was -- would be to -- to -- him sitting here -- to his</p> <p>17 left.</p> <p>18 Q. Did you stop and take any precautions to</p> <p>19 protect Daniel from continuing to bang his head on the</p> <p>20 wall of the van while you were transporting him?</p> <p>21 A. No, sir.</p> <p>22 Q. Why not?</p> <p>23 A. Because it did not -- what I could hear and</p> <p>24 see, it didn't seem like that it was of anything</p> <p>25 that -- anything serious, you know, just -- that --</p>	<p style="text-align: right;">45</p> <p>1 A. There is a ramp that -- that goes into the</p> <p>2 basement -- excuse me -- into the sally port area.</p> <p>3 Q. So that's the place where he ended up getting</p> <p>4 shot and killed is where he also entered. Is that</p> <p>5 correct?</p> <p>6 A. Yes, sir.</p> <p>7 Q. At the time that -- as Daniel was taken into</p> <p>8 jail, that first door after entering the sally port, by</p> <p>9 the time you saw him right there entering jail, did he</p> <p>10 have some injuries to his head or face that you</p> <p>11 observed?</p> <p>12 A. I -- I know that he -- that he -- somewhere he</p> <p>13 received a laceration on his -- on his head and when</p> <p>14 he -- when we got there, he did not have it.</p> <p>15 I did not walk -- I took the other</p> <p>16 prisoner and -- with -- and walked with the other</p> <p>17 prisoner and Officer Flores and Romero took -- took</p> <p>18 Daniel down in through the -- through the people --</p> <p>19 people door, where the people go in and out of, not the</p> <p>20 vehicles. And -- and whenever I got inside -- or got</p> <p>21 down to the -- to the -- to that door, then I could --</p> <p>22 no. It was whenever we got into the elevator that I</p> <p>23 saw that he had a laceration.</p> <p>24 Q. Was Daniel bleeding by that point?</p> <p>25 A. Yes, he was.</p>

<p style="text-align: right;">46</p> <p>1 Q. Heavy bleeding?</p> <p>2 A. Not heavy heavy, but, yes, he -- there was --</p> <p>3 there was a substantial amount of blood.</p> <p>4 Q. Do you know how he got that injury?</p> <p>5 A. No, sir.</p> <p>6 Q. The injury to his head where he had the</p> <p>7 laceration, was that in the same area as you observed</p> <p>8 Daniel banging his head on the wall of the van while</p> <p>9 transporting him?</p> <p>10 MR. JIM DARNELL: Objection, speculation.</p> <p>11 MR. ORTEGA: Same objection.</p> <p>12 A. I cannot say that.</p> <p>13 MR. JIM DARNELL: Can we take a short</p> <p>14 break?</p> <p>15 MR. GAGE: In a moment, yeah.</p> <p>16 Q. (By Mr. Gage) When you were entering the</p> <p>17 jail, where were you in relation to Daniel, Officers</p> <p>18 Flores and Romero?</p> <p>19 A. I was behind them bringing down the other --</p> <p>20 the other prisoner and I walked -- they got to the</p> <p>21 door -- gee, I don't know how much -- I mean I don't</p> <p>22 know -- I don't know how long it took me to get this</p> <p>23 other gentleman down there walking down the ramp, but</p> <p>24 they just -- I just got there behind them is all.</p> <p>25 Q. About how far away were they from you when you</p>	<p style="text-align: right;">48</p> <p>1 A. Well, because it's -- it would show that we --</p> <p>2 or the transporting officer didn't -- didn't -- didn't</p> <p>3 cause the damage.</p> <p>4 Q. There has been some testimony in this case</p> <p>5 indicating that either Officers Romero or Flores or</p> <p>6 perhaps both of them had pushed Daniel shortly before</p> <p>7 his head banged into the doorway. Did you ever see any</p> <p>8 of that?</p> <p>9 MR. ORTEGA: Objection, assumes facts not</p> <p>10 in evidence.</p> <p>11 MR. JIM DARNELL: Same objection.</p> <p>12 A. No, sir, I did not see him pushed.</p> <p>13 Q. (By Mr. Gage) When Daniel's head went into</p> <p>14 the door, the way that it went in, would it be</p> <p>15 consistent with a person pushing him from the back, to</p> <p>16 your understanding?</p> <p>17 MR. ORTEGA: Objection, calls for</p> <p>18 speculation.</p> <p>19 MR. JIM DARNELL: Same objection.</p> <p>20 A. I do not know, sir.</p> <p>21 Q. (By Mr. Gage) Did you see Daniel go on the</p> <p>22 floor or on the ground at the entrance to the jail?</p> <p>23 A. Can you rephrase that or ask it again.</p> <p>24 Q. Sure. When you -- you were able to watch</p> <p>25 Romero and Flores walk Daniel to the jail entrance door</p>
<p style="text-align: right;">47</p> <p>1 saw them at the door first?</p> <p>2 A. 12, 15 paces.</p> <p>3 Q. Was there anything that blocked your vision?</p> <p>4 A. No, sir.</p> <p>5 Q. Was the lighting good at that point?</p> <p>6 A. Yes, sir.</p> <p>7 Q. Did you see anything that Daniel did going</p> <p>8 into the door that would have caused him to be injured</p> <p>9 at all?</p> <p>10 A. I believe that -- that he slung his head -- I</p> <p>11 couldn't tell you if it was to the right or to the</p> <p>12 left -- that when he slung his head, that that's</p> <p>13 probably where he -- where he got the injury.</p> <p>14 Q. So you actually saw him slinging his head?</p> <p>15 A. Let me -- I -- I can't say that I saw it like</p> <p>16 I'm sitting here seeing you type, I'm seeing that, but</p> <p>17 whenever -- whenever -- as they were -- as they were</p> <p>18 going in with him, I can remember him -- him, what I'm</p> <p>19 pretty sure is slinging his head.</p> <p>20 Q. Is that something that would be important to</p> <p>21 document in a witness statement if you wrote one about</p> <p>22 the events?</p> <p>23 A. If I -- if I recalled it, yeah.</p> <p>24 Q. And why would that be important to put into a</p> <p>25 witness statement?</p>	<p style="text-align: right;">49</p> <p>1 at the bottom of the sally port. Correct?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Did you see Daniel go onto the floor at any</p> <p>4 point in that location?</p> <p>5 A. Well, what do you mean "go on"?</p> <p>6 Q. Did you ever see him on the ground?</p> <p>7 A. I'm trying to think. Him laying on -- on the</p> <p>8 floor? I don't think so.</p> <p>9 Q. Okay. Did you notice Daniel on the floor at</p> <p>10 all?</p> <p>11 MR. ORTEGA: Objection, asked and</p> <p>12 answered.</p> <p>13 A. I can't recall, sir.</p> <p>14 Q. (By Mr. Gage) Did you see how he would have</p> <p>15 ended up on the ground, if he was there?</p> <p>16 A. No, sir.</p> <p>17 Q. At any point did you open the door for the</p> <p>18 officers and Daniel to enter the jail?</p> <p>19 A. Which door, sir?</p> <p>20 Q. The first -- the first door. Did you open the</p> <p>21 door?</p> <p>22 A. No, sir.</p> <p>23 Q. Did you open any other door in the jail for</p> <p>24 them?</p> <p>25 A. I -- not that I can remember. Could I have?</p>

<p>50</p> <p>1 Possibly. Do I recall? No.</p> <p>2 Q. When Daniel was going towards the door of the</p> <p>3 jail, was he resisting in any way that you saw?</p> <p>4 A. I do not think so.</p> <p>5 Q. Was Daniel screaming at all when he was by the</p> <p>6 door to the jail?</p> <p>7 A. Not that I can recall.</p> <p>8 Q. Did any other jailers come to assist with</p> <p>9 Daniel near the jail door that you saw?</p> <p>10 A. Not that I can remember.</p> <p>11 Q. Was there anything that Daniel was doing that</p> <p>12 you personally saw from the time he left the van after</p> <p>13 parking at the jail until he got to the elevator of the</p> <p>14 jail?</p> <p>15 A. Was there --</p> <p>16 Q. Was there anything that Daniel was doing from</p> <p>17 the time that he got out of the van at the jail until</p> <p>18 he was at the elevator of the jail that you believed</p> <p>19 would justify any use of force against him?</p> <p>20 MR. ORTEGA: Objection, calls for legal</p> <p>21 conclusion, vague and form.</p> <p>22 MR. JIM DARNELL: And it calls for</p> <p>23 speculation.</p> <p>24 A. Not that I can recall, sir.</p> <p>25 Q. (By Mr. Gage) Did you see Daniel on the</p>	<p>52</p> <p>1 Q. Was he moving sort of laying still?</p> <p>2 A. More laying still.</p> <p>3 Q. Did you determine at that point when you were</p> <p>4 on the elevator if Daniel was conscious or not?</p> <p>5 A. Well, I do not know if he was conscious or</p> <p>6 not. But -- because I -- I -- I couldn't tell you that</p> <p>7 I -- that I, you know, was right there to -- to -- to</p> <p>8 see exactly everything that he was doing.</p> <p>9 Q. Did you see any -- withdraw.</p> <p>10 Did you see Daniel getting dragged at all</p> <p>11 by Romero or Flores?</p> <p>12 A. They had him by the shoulders because -- and</p> <p>13 because he wouldn't cooperate to -- to walk and -- and</p> <p>14 they drug him through the -- through the -- through</p> <p>15 the -- where booking is -- where that little room is</p> <p>16 that's kind of a little holding area and then through</p> <p>17 that door and then over to the elevators, which would</p> <p>18 be to the left of there probably five feet -- no, more</p> <p>19 than that to the elevators -- maybe 10 or 12 feet to</p> <p>20 the elevators.</p> <p>21 And -- and I remember seeing them because</p> <p>22 I stayed in the booking and they drug him through that</p> <p>23 little room, the little holding cell area, and over to</p> <p>24 the double doors and then they went out the double</p> <p>25 doors.</p>
<p>51</p> <p>1 elevator at the jail?</p> <p>2 A. Yes, as we were going up.</p> <p>3 Q. Did you notice any bleeding from his head at</p> <p>4 that point?</p> <p>5 A. Yes, sir.</p> <p>6 Q. What did you see?</p> <p>7 A. He was just -- he was bleeding from his --</p> <p>8 from his head.</p> <p>9 Q. Did he appear to be losing consciousness at</p> <p>10 that point?</p> <p>11 A. No, sir.</p> <p>12 MR. ORTEGA: Objection, calls for</p> <p>13 speculation.</p> <p>14 Q. (By Mr. Gage) Was he standing, sitting or</p> <p>15 laying down when you saw him on the elevator going</p> <p>16 upstairs?</p> <p>17 A. He was probably -- gee, let me think. I know</p> <p>18 he wasn't standing. He was probably on the floor on</p> <p>19 his -- on his left side, but I am not 100 percent sure.</p> <p>20 Q. So laying down on his left side?</p> <p>21 A. Yeah.</p> <p>22 Q. Is that correct?</p> <p>23 A. Yes, sir.</p> <p>24 Q. Did he -- were his eyes open or closed?</p> <p>25 A. I do not know.</p>	<p>53</p> <p>1 Q. How far is booking from those double doors?</p> <p>2 A. Two ways to go, through the cell area or</p> <p>3 through -- through the other double doors. And you're</p> <p>4 just going to ask me to make a guess because that's all</p> <p>5 I could do for you would be guess.</p> <p>6 Q. There is a difference between a guess and an</p> <p>7 estimate. Sometimes they're given at the beginning of</p> <p>8 the deposition, I'm going to explain now.</p> <p>9 The common definition is if you look at</p> <p>10 this table here that you're in front of, you can</p> <p>11 observe how long it is and you can give us an estimate</p> <p>12 of the distance. If I was to ask you for the length of</p> <p>13 the table in my home, you've never been to my home,</p> <p>14 you've never seen it, it would be a sheer guess.</p> <p>15 Do you understand that distinction?</p> <p>16 A. I do.</p> <p>17 Q. And the same thing applies with respect to the</p> <p>18 distance from the booking area to the double doors. If</p> <p>19 I asked you what was the difference from -- or the</p> <p>20 distance between the booking area at the Lost Hills</p> <p>21 sheriff's station to the double doors, you've never</p> <p>22 been there, you would be making a sheer guess, but here</p> <p>23 you had an observation so you can give us an estimate.</p> <p>24 So it can be a range. You can say 10 to</p> <p>25 12 feet, you could say 50 to 60 feet, whatever is the</p>

<p>54</p> <p>1 best estimate.</p> <p>2 A. So --</p> <p>3 MR. ORTEGA: I'm going to object to your</p> <p>4 narrative and instruction and that your question calls</p> <p>5 for speculation.</p> <p>6 MR. GAGE: I haven't even finished my</p> <p>7 question. That is very clairvoyant.</p> <p>8 Q. (By Mr. Gage) My question for you is what's</p> <p>9 your best estimate of the distance from that booking</p> <p>10 area that you were in to the double doors you talked</p> <p>11 about?</p> <p>12 MR. ORTEGA: Object to the narrative and</p> <p>13 calls for speculation.</p> <p>14 MR. JIM DARNELL: Same objection.</p> <p>15 A. It would be an estimate because I have been</p> <p>16 there.</p> <p>17 Q. (By Mr. Gage) Right.</p> <p>18 A. Okay.</p> <p>19 Q. And what's that distance?</p> <p>20 A. And -- okay. From inside the -- the -- from</p> <p>21 the door of that little cell area to the other hallway,</p> <p>22 I would estimate 15 to 17 feet.</p> <p>23 Q. What -- go ahead. Sorry.</p> <p>24 A. Through the double doors to the elevator, I</p> <p>25 would estimate eight to eleven feet.</p>	<p>56</p> <p>1 trustees were mopping up the blood from Daniel's head</p> <p>2 that went on the floor?</p> <p>3 A. Yes, sir, I did.</p> <p>4 Q. How did you learn about that?</p> <p>5 A. Because the prisoner that I -- I stayed behind</p> <p>6 to -- to -- with, I passed him on to another city</p> <p>7 officer, El Paso PD officer that was up there, and I --</p> <p>8 I knew that they needed help --</p> <p>9 Q. "They" being who?</p> <p>10 A. Romero and Flores. And I wanted to hurry and</p> <p>11 get back downstairs to the -- to the basement, to the</p> <p>12 sally port, and -- and give them some help. There was</p> <p>13 only one elevator -- one elevator they -- wasn't</p> <p>14 working or they were using it upstairs transporting</p> <p>15 whatever -- meals or whatever, so it was not -- not in</p> <p>16 operation. And the other elevator I kept pushing and</p> <p>17 I -- and I looked at the -- the -- the gentleman</p> <p>18 that -- the deputy or trustee -- whatever he was that</p> <p>19 worked there at the control and I read his lips saying,</p> <p>20 "It's too late." And I read his lips saying, "It's too</p> <p>21 late," and I -- my heart just sunk. I didn't know what</p> <p>22 happened.</p> <p>23 Q. Why did your heart sink?</p> <p>24 A. Oh, because I knew that -- I knew that those</p> <p>25 guys needed help.</p>
<p>55</p> <p>1 Q. Did anything obscure your vision from booking</p> <p>2 to the double doors?</p> <p>3 A. Yes.</p> <p>4 Q. And what was that?</p> <p>5 A. It would be the location of where the double</p> <p>6 doors are at.</p> <p>7 Q. Okay. But at least between booking and double</p> <p>8 doors, you had a clear line of sight. Correct?</p> <p>9 A. No, because there's that little cell area.</p> <p>10 Q. The cell area is on the left, the right or</p> <p>11 where is it?</p> <p>12 A. It's right doggone in the middle.</p> <p>13 Q. Okay.</p> <p>14 MR. JIM DARNELL: Let's take a break.</p> <p>15 MR. GAGE: Two more minutes.</p> <p>16 MR. JIM DARNELL: No, I've got to go to</p> <p>17 the restroom.</p> <p>18 MR. GAGE: Okay.</p> <p>19 MR. JIM DARNELL: Thank you.</p> <p>20 THE VIDEOGRAPHER: We're off record,</p> <p>21 3:13 p.m.</p> <p>22 (A recess was had.)</p> <p>23 THE VIDEOGRAPHER: We're back on the</p> <p>24 record, 3:28 p.m.</p> <p>25 Q. (By Mr. Gage) Did you ever learn that jail</p>	<p>57</p> <p>1 Q. How did you know that they needed help?</p> <p>2 A. Well, because of -- Saenz was a handful. If</p> <p>3 he wasn't going to cooperate, then -- then, you know,</p> <p>4 they -- they -- they just needed help.</p> <p>5 Q. Did you hear them calling for assistance?</p> <p>6 A. No, sir, I did not hear anything.</p> <p>7 Q. Did you call for assistance to get someone to</p> <p>8 help them since you knew they needed help?</p> <p>9 A. No, sir, I did not have -- I do not have a</p> <p>10 police radio.</p> <p>11 Q. Did you ask anyone else there at the jail to</p> <p>12 get some help since you saw they were in need of</p> <p>13 assistance?</p> <p>14 A. Well, can I kind of correct you on your</p> <p>15 question there? You said since -- since I saw that</p> <p>16 they needed. It's that -- that I sensed that -- that</p> <p>17 they really -- that they needed some help, so, no, I</p> <p>18 did not ask anybody else to -- to summons help for</p> <p>19 them. Flores had a police radio and he could get help,</p> <p>20 I mean stop a patrol car driving down the street</p> <p>21 because there's a lot of them right there and -- and</p> <p>22 get help if you needed it.</p> <p>23 MR. JIM DARNELL: Object to speculation.</p> <p>24 Q. (By Mr. Gage) So did you have any kind of a</p> <p>25 radio on you at all, whether it was a police radio or a</p>

<p>58</p> <p>1 G4S radio?</p> <p>2 A. No, sir.</p> <p>3 Q. At some point I think you told us that you</p> <p>4 knew Romero and Flores needed help and at another point</p> <p>5 you said you sensed that they needed help.</p> <p>6 A. Uh-huh.</p> <p>7 Q. What caused you to feel that way?</p> <p>8 A. Because Saenz was -- was not cooperating.</p> <p>9 Q. What was he doing that you observed that was</p> <p>10 not cooperative in the jail?</p> <p>11 A. He would -- he would not stand and -- and --</p> <p>12 and walk on his own.</p> <p>13 Q. Other than him not standing and walking on his</p> <p>14 own, did you see Daniel doing anything else in the jail</p> <p>15 that was not cooperative?</p> <p>16 A. No, sir.</p> <p>17 Q. In the jail did they have any kinds of gurneys</p> <p>18 or wheelchairs or other devices that would allow a</p> <p>19 prisoner to be transported if they weren't walking?</p> <p>20 A. Not that I know of.</p> <p>21 Q. Did anyone ever tell you what should be done</p> <p>22 if you have a prisoner who can't walk in the jail?</p> <p>23 A. No, sir.</p> <p>24 MR. JIM DARNELL: Object, assumes facts</p> <p>25 not in evidence.</p>	<p>60</p> <p>1 Q. Did you have any knowledge of Daniel</p> <p>2 volunteering at the YMCA helping children and adults</p> <p>3 with physical fitness at all?</p> <p>4 A. No, sir.</p> <p>5 Q. Did you know anything about any of his weight</p> <p>6 lifting efforts in the past or bodybuilding, anything</p> <p>7 like that?</p> <p>8 A. No, sir.</p> <p>9 Q. When Daniel was, for whatever reason, unable</p> <p>10 to walk, did you observe Flores and Romero pulling him</p> <p>11 by his arms, dragging him on the floor?</p> <p>12 A. Pulling him by his arms, no, sir.</p> <p>13 Q. How were they getting him through the jail if</p> <p>14 Daniel was not walking?</p> <p>15 A. I don't -- I cannot actually visualize the --</p> <p>16 what -- what -- how they were moving him, but probably</p> <p>17 something sticks in my mind that -- that they would</p> <p>18 grab him under each armpit and -- and moved him in --</p> <p>19 moved him in that fashion.</p> <p>20 Q. Do you know if he was single or double cuffed</p> <p>21 at that point?</p> <p>22 A. He was double cuffed.</p> <p>23 Q. Do you know who cuffed him?</p> <p>24 A. No, sir, I do not know.</p> <p>25 Q. Did you ever see anyone try to single cuff</p>
<p>59</p> <p>1 Q. (By Mr. Gage) Have you been at any jails in</p> <p>2 your 35-year career where there would be a prisoner</p> <p>3 that needed assistance, he couldn't walk for some</p> <p>4 reason?</p> <p>5 A. No, sir.</p> <p>6 Q. Are you aware of any jails that have</p> <p>7 wheelchairs for disabled prisoners?</p> <p>8 A. No, sir.</p> <p>9 Q. You had contact with Daniel Saenz before March</p> <p>10 of 2013, I believe. Correct?</p> <p>11 A. Yes, sir.</p> <p>12 Q. When you were around him before, what kind of</p> <p>13 a guy was he?</p> <p>14 A. Nice guy.</p> <p>15 Q. And why did you feel he was a nice guy?</p> <p>16 A. Because he -- he was -- he was polite,</p> <p>17 cordial, told me that he was -- was on -- on coke. And</p> <p>18 I asked him if he was okay and he says yeah, he was</p> <p>19 fine. And then he voluntarily said, "Don't worry,</p> <p>20 Mr. Matthews," he says, "I won't give you any</p> <p>21 problems." And he didn't.</p> <p>22 Q. Did you ever see Daniel at any other times</p> <p>23 before March of 2013 other than that one time he got</p> <p>24 arrested?</p> <p>25 A. No, sir.</p>	<p>61</p> <p>1 Daniel?</p> <p>2 A. No, sir.</p> <p>3 Q. When you had him under your custody about</p> <p>4 three months earlier, do you recall if he was single</p> <p>5 cuffed or double cuffed?</p> <p>6 A. He probably was double cuffed, because I know</p> <p>7 that -- that -- I knew he was -- he was a -- you could</p> <p>8 tell he lifted weights, you know, he didn't get the --</p> <p>9 get those biceps and shoulders from, you know, from</p> <p>10 lifting -- lifting 12 ounces. And I know that --</p> <p>11 that -- I don't know whether I did, but I would put two</p> <p>12 handcuffs on him so that -- so that his shoulders would</p> <p>13 not be -- be pinching -- you know, pinching together</p> <p>14 and he would be hurting and uncomfortable.</p> <p>15 Q. Okay.</p> <p>16 MR. GAGE: Move to strike, nonresponsive.</p> <p>17 Q. (By Mr. Gage) Do you happen to recall</p> <p>18 specifically if three months previously Daniel was</p> <p>19 single cuffed or double cuffed?</p> <p>20 A. I'm almost 100 percent sure he was -- he was</p> <p>21 double cuffed.</p> <p>22 Q. Is that -- and what causes you to be almost</p> <p>23 100 percent sure?</p> <p>24 A. Well, I -- because I -- I can't -- you know,</p> <p>25 time has passed and I can't say that -- that I remember</p>

<p style="text-align: right;">62</p> <p>1 seeing him, you know, just as vivid as you're sitting</p> <p>2 there, I can't tell you that. But -- but there's</p> <p>3 something that's in -- you know, in my mind that says</p> <p>4 yeah.</p> <p>5 Q. Did you know that Daniel had been accused of</p> <p>6 punching a female officer that morning of March 8th,</p> <p>7 2013?</p> <p>8 A. I did.</p> <p>9 Q. How did you learn about that?</p> <p>10 A. Hearing officers talk there in the -- in the</p> <p>11 cell area or in the office.</p> <p>12 Q. This was before you took him to the jail.</p> <p>13 Correct?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Do you know if Flores was around at the time</p> <p>16 of this conversation?</p> <p>17 A. I do not know.</p> <p>18 Q. Did -- was Romero there at the time that these</p> <p>19 officers had mentioned that Daniel was accused of</p> <p>20 punching a female officer in the face?</p> <p>21 A. He probably was, but, again, I can't tell you,</p> <p>22 "Yeah, I remember him sitting there," you know, "We</p> <p>23 were standing there talking together," or anything.</p> <p>24 Q. One of the reasons you feel that Romero was</p> <p>25 probably present during this conversation is because</p>	<p style="text-align: right;">64</p> <p>1 Daniel was arrested or being transported to jail?</p> <p>2 A. Not that I can recall.</p> <p>3 Q. Did Flores tell you anything about why Daniel</p> <p>4 was arrested and taken to jail?</p> <p>5 A. Not that I can recall.</p> <p>6 Q. Do you recall the names of any of the officers</p> <p>7 that you heard talking about Daniel being accused of</p> <p>8 punching a female officer in the face while you were at</p> <p>9 the regional -- Pebble Hills Regional Command Center?</p> <p>10 A. No, sir.</p> <p>11 Q. Did you go up the elevator with Daniel to the</p> <p>12 second floor of the jail?</p> <p>13 A. Yes, sir.</p> <p>14 Q. When he was at the second floor, did you</p> <p>15 observe Romero and Flores continue to drag Daniel to</p> <p>16 the processing area?</p> <p>17 A. Well, I wish I -- again, I -- I wish I could</p> <p>18 say that I -- that I could have a real independent</p> <p>19 recollection, but chances are, yes, you know, that's</p> <p>20 how they were moving him around.</p> <p>21 Q. Was he continuing to bleed from his head and</p> <p>22 face area when he was getting dragged on the second</p> <p>23 floor?</p> <p>24 A. Yes, sir.</p> <p>25 Q. Did you observe or learn that any trustees</p>
<p style="text-align: right;">63</p> <p>1 you guys were partners that day?</p> <p>2 A. Yes, that is correct.</p> <p>3 Q. So he would have been where you were at least</p> <p>4 at the Pebble Hills regional center. Correct?</p> <p>5 A. Yes, sir.</p> <p>6 MR. ORTEGA: Objection, calls for</p> <p>7 speculation.</p> <p>8 MR. JIM DARNELL: Same objection.</p> <p>9 Q. (By Mr. Gage) And you have a recollection of</p> <p>10 being together with Romero at the Pebble Hills regional</p> <p>11 center. Correct?</p> <p>12 A. Yes, sir.</p> <p>13 Q. What do you recall, in as much detail as</p> <p>14 possible, the officers saying regarding the allegation</p> <p>15 that Daniel had punched a female officer in the face</p> <p>16 earlier that day?</p> <p>17 A. Nothing. That's all I can recall.</p> <p>18 Q. Did you ever learn that Flores volunteered to</p> <p>19 transport Daniel from the Pebble Hills regional center</p> <p>20 to jail?</p> <p>21 MR. JIM DARNELL: Object, assumes facts</p> <p>22 not in evidence.</p> <p>23 Q. (By Mr. Gage) Go ahead.</p> <p>24 A. No, sir, I did not know.</p> <p>25 Q. Did you speak with Flores at all regarding why</p>	<p style="text-align: right;">65</p> <p>1 mopped up the floor from the blood of Daniel's head and</p> <p>2 face on the second floor as well?</p> <p>3 A. I don't remember, sir.</p> <p>4 Q. Did you see blood on the floor?</p> <p>5 A. I probably did, but I -- I can't -- I can't</p> <p>6 tell you that, "Yeah, I remember seeing blood on the</p> <p>7 floor."</p> <p>8 Q. Were you present when a female nurse was</p> <p>9 speaking to Flores and Romero about the medical</p> <p>10 condition of Daniel?</p> <p>11 A. I was present because I -- I -- I know I was</p> <p>12 there, but I cannot tell you exactly what she said</p> <p>13 other than -- than -- I remember they, the nurse -- if</p> <p>14 there was one or two, I don't remember -- probably</p> <p>15 said -- because they left with him -- that, you know,</p> <p>16 "We can't accept him because -- because he's bleeding."</p> <p>17 Q. Did the nurse yell to get him out of there?</p> <p>18 A. Gee, I don't -- I can't remember that.</p> <p>19 Q. You don't remember that happening?</p> <p>20 A. I don't remember that. No, sir.</p> <p>21 Q. What time did you arrive at the jail that day</p> <p>22 with Daniel, approximately?</p> <p>23 A. I do not remember.</p> <p>24 Q. How much time passed, approximately, from the</p> <p>25 time you arrived until you learned he had been shot?</p>

<p>66</p> <p>1 A. I could only estimate --</p> <p>2 Q. That's fine.</p> <p>3 A. -- because I don't -- I don't remember, you</p> <p>4 know -- goodness.</p> <p>5 Q. Two hours?</p> <p>6 A. Oh, heavens no. Maybe 25, you know, to 40 --</p> <p>7 40 minutes maybe, 45 possibly. I don't think it was</p> <p>8 that long but...</p> <p>9 Q. When Daniel was taken to the nurse, did the</p> <p>10 nurse do anything to provide medical treatment to</p> <p>11 Daniel that you saw?</p> <p>12 A. Not that I saw, no, sir.</p> <p>13 Q. When the nurse refused to allow Daniel to be</p> <p>14 booked that was because of the serious head injury he</p> <p>15 had as you understood it. Correct?</p> <p>16 A. Yes, sir.</p> <p>17 Q. What happened -- once that happened, what is</p> <p>18 the next thing that you saw or heard happening?</p> <p>19 A. They were -- before they left there was a -- a</p> <p>20 gentleman that worked at the jail. He was -- he's an</p> <p>21 African-American man, maybe late 50s there, tall,</p> <p>22 slender. I don't remember his name, whether Wilson,</p> <p>23 Parks -- I just -- I didn't -- don't -- I don't</p> <p>24 remember exactly what his name was, but as -- he walked</p> <p>25 in there and his statement was, "Stay away from that</p>	<p>68</p> <p>1 A. Well, because if somebody's unconscious, then</p> <p>2 it must be something that's physically wrong.</p> <p>3 Q. The black male that you spoke of, was he</p> <p>4 wearing glasses?</p> <p>5 A. I wish I could remember, but I do not</p> <p>6 remember.</p> <p>7 Q. Do you remember anybody at the jail joking</p> <p>8 about steroids not helping Daniel that day or words to</p> <p>9 that effect?</p> <p>10 A. No, sir, I don't.</p> <p>11 Q. Did you learn of anyone giggling -- law</p> <p>12 enforcement giggling about the fact that Daniel was</p> <p>13 being dragged and -- or appeared to be unconscious?</p> <p>14 A. No, sir.</p> <p>15 Q. Would that concern you if law enforcement was</p> <p>16 doing that?</p> <p>17 MR. ORTEGA: Objection, calls for</p> <p>18 speculation.</p> <p>19 A. Well, it would have been unprofessional, of</p> <p>20 course.</p> <p>21 Q. (By Mr. Gage) I think one of the statements</p> <p>22 was that there was a black male with glasses, a deputy,</p> <p>23 who had recognized Daniel, he mentioned that Daniel was</p> <p>24 using steroids and joked about steroids not helping him</p> <p>25 that day. That there were officers, including Trooper</p>
<p>67</p> <p>1 man, he's dangerous, he'll hurt you." And he says,</p> <p>2 "You-all stay away from him," and he left.</p> <p>3 Q. He laughed?</p> <p>4 A. He left. He got out of the room. And that</p> <p>5 is -- that is the way that he did it. And I'm going,</p> <p>6 like, "Whoa, he -- he knows something that we don't</p> <p>7 know."</p> <p>8 Q. Did you ask this man, "What do you mean by</p> <p>9 that?"</p> <p>10 A. No, sir, he was -- if he would have come back</p> <p>11 in there -- well, I didn't have time, but I certainly</p> <p>12 would have liked to have asked him.</p> <p>13 Q. At any time did you hear the people in the</p> <p>14 jail joking about Daniel being unconscious at all?</p> <p>15 A. No, sir. No, sir.</p> <p>16 Q. Would that have concerned you if they were</p> <p>17 making such statements?</p> <p>18 MR. ORTEGA: Objection, calls for</p> <p>19 speculation.</p> <p>20 MR. JIM DARNELL: Same objection.</p> <p>21 Q. (By Mr. Gage) Go ahead.</p> <p>22 A. Yes, if -- if -- if I would have thought that</p> <p>23 he was -- he was unconscious, then, yeah, something</p> <p>24 needed -- needed to be done real quick.</p> <p>25 Q. Why would that have concerned you?</p>	<p>69</p> <p>1 Melvin Anthony Allick, who giggled about that.</p> <p>2 Did you ever hear anything about that?</p> <p>3 A. No, sir.</p> <p>4 Q. What were you told you were supposed to do if</p> <p>5 you were in a situation where you needed help or backup</p> <p>6 since you didn't have a radio to call for help?</p> <p>7 MR. ORTEGA: Objection, form, lack of</p> <p>8 foundation.</p> <p>9 MR. GAGE: I'm actually going to sustain</p> <p>10 that objection and reask it.</p> <p>11 Q. (By Mr. Gage) At G4S were you trained what</p> <p>12 you should do in a situation if you needed assistance</p> <p>13 and to call for backup not having a radio?</p> <p>14 MR. ORTEGA: Objection, form.</p> <p>15 Q. (By Mr. Gage) Go ahead.</p> <p>16 A. Well, again, when you say trained, I cannot --</p> <p>17 I can't remember everything that we were trained about.</p> <p>18 Q. Do you recall any training that you received</p> <p>19 from G4S security as to what you were supposed to do if</p> <p>20 you needed backup?</p> <p>21 MR. ORTEGA: Objection, form.</p> <p>22 A. Well, I -- I cannot tell you that -- that --</p> <p>23 that, "Yeah, I remember what this training manual said</p> <p>24 that you're going to do this, you should do this."</p> <p>25 Sir, as far as the training, I just -- I</p>

<p style="text-align: right;">70</p> <p>1 can't come up with something that's -- that's</p> <p>2 independent that I can remember.</p> <p>3 Q. (By Mr. Gage) Did you receive any training on</p> <p>4 how to handle an unruly or combative suspect when</p> <p>5 worked for G4S security?</p> <p>6 MR. ORTEGA: Objection, form.</p> <p>7 A. I cannot tell you any specific training that</p> <p>8 we received on handling prisoners because I don't</p> <p>9 remember.</p> <p>10 Q. (By Mr. Gage) Did Romero ever tell you that</p> <p>11 he was aware of any training on how to handle combative</p> <p>12 suspects?</p> <p>13 A. Not that I know of.</p> <p>14 Q. Were you ever taught by G4S security that if</p> <p>15 you have a combative suspect, you should have some kind</p> <p>16 of an action plan with your partner as to how to deal</p> <p>17 with that situation if the suspect gets more unruly?</p> <p>18 MR. ORTEGA: Objection, form.</p> <p>19 A. I have no recollection of anything like that.</p> <p>20 Q. (By Mr. Gage) When you worked for other law</p> <p>21 enforcement agencies, were there times where you would</p> <p>22 have a plan of attack, what to do in case things</p> <p>23 started to go bad in a law enforcement setting?</p> <p>24 MR. ORTEGA: Objection, form.</p> <p>25 A. Again, I -- one particular training or -- or</p>	<p style="text-align: right;">72</p> <p>1 then we would go through their communications center</p> <p>2 and -- and tell them what we were up against, what we</p> <p>3 needed.</p> <p>4 Q. So you had a police radio that would go</p> <p>5 directly to the police department, then, as opposed to</p> <p>6 G4S security if you needed backup. Correct?</p> <p>7 A. Correct, yes, sir.</p> <p>8 Q. Was there any way for you to obtain backup</p> <p>9 from G4S security if you needed it?</p> <p>10 A. No, sir.</p> <p>11 Q. Have you ever heard of situations before March</p> <p>12 of 2013 where security guards escorting prisoners to</p> <p>13 transport them to jail would need backup?</p> <p>14 A. No, sir, I have not.</p> <p>15 Q. What were you told were your duties when</p> <p>16 transporting a prisoner for the El Paso Police</p> <p>17 Department?</p> <p>18 A. Was to take them from the Pebble Hills</p> <p>19 Regional Command Center to the El Paso County detention</p> <p>20 facility.</p> <p>21 Q. How far away are those two facilities?</p> <p>22 A. Well, I would estimate that they're about 10</p> <p>23 miles.</p> <p>24 Q. How long did it take you to drive on the day</p> <p>25 of March 8th, 2013, from Pebble Hills to the jail?</p>
<p style="text-align: right;">71</p> <p>1 memo or policy on what you did for something, I just --</p> <p>2 I can't tell you, I just don't remember.</p> <p>3 Q. (By Mr. Gage) Did you have briefings or roll</p> <p>4 call when you worked for police agencies?</p> <p>5 A. At the PD we did.</p> <p>6 Q. As part of that roll call, were there times</p> <p>7 where they would tell you, "This is a person that we're</p> <p>8 concerned about," kind of like a -- a something-10</p> <p>9 memo? Well, withdraw.</p> <p>10 Were you ever told, "Gee, we have this</p> <p>11 person that's a suspect. If you come into contact with</p> <p>12 him, here's the plan of attack, here's what you should</p> <p>13 do"?</p> <p>14 MR. ORTEGA: Objection, form.</p> <p>15 A. Not that I can remember, no, sir.</p> <p>16 Q. (By Mr. Gage) Were you taught how you could</p> <p>17 summon aid as a G4S security officer by anyone, if you</p> <p>18 needed it?</p> <p>19 A. Well -- were we taught how to summons aid --</p> <p>20 Q. Yes.</p> <p>21 A. -- if we needed -- if we needed -- if we</p> <p>22 needed help?</p> <p>23 Q. Yeah.</p> <p>24 A. Well, you know, we -- you know, we did have a</p> <p>25 police radio in the van, so if -- if we needed help,</p>	<p style="text-align: right;">73</p> <p>1 A. Well, on that day I couldn't tell you exactly</p> <p>2 how long it took us to drive.</p> <p>3 Q. How about your best estimate.</p> <p>4 A. If traffic is flowing, 30 minutes, and if it's</p> <p>5 at a standstill, it could be 45 minutes or longer.</p> <p>6 Q. So your best estimate, then, is that on</p> <p>7 March 8th, 2013, it took you approximately 30 to 45</p> <p>8 minutes to drive Mr. Saenz from the Pebble Hills to the</p> <p>9 El Paso jail. Correct?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Did you have any knowledge as to why G4S would</p> <p>12 work only at the Mission Valley Regional Command Center</p> <p>13 and Pebble Hills Regional Command Centers for El Paso</p> <p>14 PD?</p> <p>15 A. My understanding was it was a brand-new</p> <p>16 contract, they were going to try it for a year, and if</p> <p>17 it was a successful program, then it would -- they</p> <p>18 would -- would hire more people and we would station</p> <p>19 G4S people at the other three substations.</p> <p>20 Q. Did that happen, to your knowledge?</p> <p>21 A. Yes, it did.</p> <p>22 Q. So after this incident G4S continued to have a</p> <p>23 contract with El Paso PD. Correct?</p> <p>24 A. Yes, sir.</p> <p>25 Q. And then El Paso PD actually expanded so that</p>

<p style="text-align: right;">74</p> <p>1 G4S now was at all five substations rather than just 2 two of them. Is that correct? 3 A. That is correct, yes, sir. 4 MR. JEEP DARNELL: Just for the record, 5 I'm Jeep Darnell taking over for Jim Darnell by 6 agreement. 7 MR. GAGE: Right. 8 Q. (By Mr. Gage) Did you get interviewed by 9 anyone after Daniel was shot and killed? 10 A. Yes, sir. 11 Q. Who interviewed you? 12 A. It was a detective downtown, police detective. 13 Q. Were you truthful and honest when you were 14 giving your testimony to that detective? 15 A. To the best of my knowledge, yes, sir. 16 Q. You wanted to make sure that you had all of 17 the information that was pertinent set forth in your 18 statement. Correct? 19 A. Yes, sir. 20 Q. Were you tape recorded? 21 A. I don't think so. 22 Q. Was your statement typed out for you in some 23 fashion afterwards? 24 A. Yes, sir, I believe it was. 25 Q. Did you have a chance to read it and review it</p>	<p style="text-align: right;">76</p> <p>1 statement that you signed that you can recall? 2 A. Not any information that -- that I am aware 3 of. 4 Q. Have you ever heard of the term Livescan? 5 A. Yes. 6 Q. What is that? 7 A. That is what -- what we do there in the cell 8 area is take the detainee's fingerprints. You roll -- 9 roll their fingers -- in the old days it was ink and 10 nowadays it's on a piece of glass and it leaves an 11 impression on some kind of a computer program that's in 12 the metal box, and then you roll their palm over -- 13 over a wheel that's made of some hard substance and you 14 get a handprint. 15 Q. How did you man that Livescan system at the 16 jail? 17 A. By the two -- two of our people are assigned 18 to work in the cell area and two people were assigned 19 to work transport. And then at -- at Mission Valley, 20 there's two people that work in the cell area also. 21 Q. Were those individuals that were working the 22 Livescan on March 8th, 2013, able to leave their post 23 and assist Flores and Romero in handling Mr. Saenz if 24 necessary? 25 A. No, sir.</p>
<p style="text-align: right;">75</p> <p>1 for accuracy? 2 A. Yes, sir, I did. 3 Q. And you read it to make sure it was complete 4 as well. True? 5 A. Yes, sir. 6 Q. Did you then sign it? 7 A. I probably did, yes, sir. 8 Q. And when you signed it, you affirmed that 9 everything you said in that statement was true and 10 accurate. Right? 11 A. Yes, sir. 12 Q. In -- how many different statements did you 13 give to the police department to the best of your 14 recollection? 15 A. Only one. 16 Q. Did anyone from G4S interview you in addition 17 to the police department? 18 A. No, sir. 19 Q. Before you were interviewed on tape or at 20 least a formal interview, did you have discussions with 21 anyone from the police department about the incident? 22 A. Okay, now, say that again, please. 23 Q. I'll ask it a different way. Was there any 24 information that you gave to the police department 25 orally that was not contained in your handwritten</p>	<p style="text-align: right;">77</p> <p>1 Q. And why not? 2 A. Because they are -- they are assigned to work 3 in the cell area and take care of the prisoners in the 4 cell area. 5 Q. If there was some kind of emergency, are G4S 6 officers authorized to leave that post because of an 7 emergency situation? 8 MR. JEEP DARNELL: Objection, calls for 9 speculation. 10 MR. ORTEGA: Same objection. And form. 11 A. I do not -- I do not think so. Is it 12 possible, but is there something that -- that they can 13 do right now on it? The answer would be no, that 14 they're assigned to do that. 15 Q. (By Mr. Gage) Did you receive any training or 16 teaching as to what you should do as a G4S security 17 guard if you're working the prison or the jail, even 18 working Livescan, but there's some kind of an emergency 19 where your assistance could help to protect other law 20 enforcement officers? 21 MR. ORTEGA: Objection, form. 22 A. A particular training, it's possible, sir. 23 But, again, on the -- on the training issues, I -- I 24 can't recall everything that we -- that we received 25 training on.</p>

<p style="text-align: right;">78</p> <p>1 Q. (By Mr. Gage) So is it a true statement that</p> <p>2 as you sit here today, you cannot recall receiving any</p> <p>3 training at any time from G4S security as to what to do</p> <p>4 in the case of an emergency at the jail?</p> <p>5 A. No, that's not a true statement.</p> <p>6 Q. Okay. What do you recall being told?</p> <p>7 A. The statement -- I -- the answer to your</p> <p>8 question was I can't recall if we received any -- any</p> <p>9 training, but it's -- it's likely that we -- we could</p> <p>10 have received training, but I don't remember the</p> <p>11 specific training that you're asking me to recall.</p> <p>12 Q. As you sit here today, you do not recall any</p> <p>13 specific training that you received as to what to do in</p> <p>14 an emergency from G4S security. Is that correct?</p> <p>15 MR. ORTEGA: Objection, form.</p> <p>16 A. Okay. Read it back again.</p> <p>17 Q. (By Mr. Gage) Sure.</p> <p>18 (The Court Reporter read back: As you</p> <p>19 sit here today, you do not recall any</p> <p>20 specific training you received as to what</p> <p>21 to do --</p> <p>22 THE COURT REPORTER: I'm sorry.</p> <p>23 THE WITNESS: Patience, it's an</p> <p>24 electronic device.</p> <p>25 (Discussion off the stenographic record.)</p>	<p style="text-align: right;">80</p> <p>1 emergency at the jail. Is that accurate?</p> <p>2 A. That's more correct, yes, sir.</p> <p>3 Q. All right. What were your specific duties</p> <p>4 regarding watching a prisoner, as you understood your</p> <p>5 duties to be, when you worked for G4S?</p> <p>6 A. Making sure that -- that they were okay, that</p> <p>7 they're sitting upright, that if -- if they needed</p> <p>8 water, restroom break, then -- then we would take them</p> <p>9 to the restroom, take them to the water fountain. And</p> <p>10 that was about -- about all, you know, all we could do.</p> <p>11 That's all they needed back there in the cell area.</p> <p>12 Q. Were you given any instruction by G4S as far</p> <p>13 as what your duties were if you were with a prisoner</p> <p>14 who was struggling under your care?</p> <p>15 MR. ORTEGA: Objection, form.</p> <p>16 A. Well, struggling -- define struggling.</p> <p>17 Q. (By Mr. Gage) Did they -- did G4S give you</p> <p>18 any instructions on what to do if a prisoner was</p> <p>19 resisting in any way when he or she was under your</p> <p>20 care?</p> <p>21 MR. ORTEGA: Objection, form, vague.</p> <p>22 A. Again, probably in our training we -- we -- we</p> <p>23 very likely could have received some training on what</p> <p>24 to do with a prisoner that was -- that was being</p> <p>25 difficult or unruly. But do I remember exactly what we</p>
<p style="text-align: right;">79</p> <p>1 (The Court Reporter read back: As we</p> <p>2 sit here today, you do not recall any</p> <p>3 specific training you received as to what</p> <p>4 to do in an emergency from G4S security.</p> <p>5 Is that correct?)</p> <p>6 A. No. Again, what you want me to say is that</p> <p>7 we -- we did not receive any training. And I'm telling</p> <p>8 you we could have received training, it's possible, but</p> <p>9 in your -- in what you're putting down there, you're</p> <p>10 not -- you're not saying that, "It's possible that you</p> <p>11 received the training, but you're not -- you don't</p> <p>12 remember the training that you received. Is that</p> <p>13 right, Mr. Matthews?"</p> <p>14 That's more correct.</p> <p>15 Q. (By Mr. Gage) Anything is possible, but as</p> <p>16 you sit here today, you don't know whether or not you</p> <p>17 received training from G4S, at least you don't remember</p> <p>18 any such training.</p> <p>19 A. Now, there's a difference between I don't know</p> <p>20 and I don't remember, don't you think? It's kind of</p> <p>21 like guessing and estimate.</p> <p>22 Q. Could be.</p> <p>23 A. Could be.</p> <p>24 Q. So you don't remember receiving any training</p> <p>25 from G4S regarding what to do in the case of an</p>	<p style="text-align: right;">81</p> <p>1 were supposed to do? No, sir, I cannot recall anything</p> <p>2 in particular. You've got to remember that's been, you</p> <p>3 know, many -- what -- since '08.</p> <p>4 Q. (By Mr. Gage) Did you receive any updates in</p> <p>5 your training from G4S after 2008 on any topics that</p> <p>6 you can recall?</p> <p>7 A. Not that I can recall.</p> <p>8 Q. When you've worked at other law enforcement</p> <p>9 agencies, did you have a radio on your person, on your</p> <p>10 body, that you could contact the dispatch or others on?</p> <p>11 A. We had access to one, but did I -- did I have</p> <p>12 it on my -- on my person? No, I did not.</p> <p>13 Q. So even when you worked for El Paso PD or as a</p> <p>14 trooper?</p> <p>15 A. Well, El Paso PD, no. This was -- when I</p> <p>16 worked for El Paso PD, this is before walkie-talkies</p> <p>17 were invented.</p> <p>18 Q. Or cell phones or computers. Right?</p> <p>19 I tell my children, "There once was a</p> <p>20 time that cell phones and computers did not exist."</p> <p>21 MR. JEEP DARNELL: Objection, relevance.</p> <p>22 MR. GAGE: That probably won't get in</p> <p>23 front of a jury, I imagine.</p> <p>24 Q. (By Mr. Gage) As a trooper did you have a</p> <p>25 radio with you?</p>

<p style="text-align: right;">82</p> <p>1 A. I was assigned one, yes, sir.</p> <p>2 Q. And the reason for having a radio at that</p> <p>3 point was in part your safety --</p> <p>4 A. Sure.</p> <p>5 Q. -- if you needed assistance you could call for</p> <p>6 help. Right?</p> <p>7 A. Uh-huh.</p> <p>8 Q. Yes?</p> <p>9 A. Yes, sir. If they worked.</p> <p>10 Q. And one of the reasons for having a police</p> <p>11 radio on your body, also, you can call for a backup if</p> <p>12 a prisoner was not cooperating. True?</p> <p>13 A. Yes, sir, correct.</p> <p>14 Q. One of the reasons why --</p> <p>15 MR. JEEP DARNELL: Objection, form.</p> <p>16 Q. (By Mr. Gage) -- you would want more backup</p> <p>17 when you had a prisoner that was not cooperating was if</p> <p>18 you had a number of officers, it would help you to</p> <p>19 safely restrain an individual without needing to use,</p> <p>20 say, deadly force. Correct?</p> <p>21 MR. ORTEGA: Objection, form.</p> <p>22 MR. JEEP DARNELL: Objection, form.</p> <p>23 A. Well, you're partly right there, but not --</p> <p>24 not are you going to use deadly force on -- on somebody</p> <p>25 that's just being disruptive.</p>	<p style="text-align: right;">84</p> <p>1 Q. (By Mr. Gage) Sure. You've told us that</p> <p>2 having more officers come for backup when there is a</p> <p>3 suspect who's resisting can help for control of the</p> <p>4 suspect in a safe manner. Correct?</p> <p>5 A. Hold it. Now, I didn't tell you that. That</p> <p>6 was a question that you asked me.</p> <p>7 Q. Right.</p> <p>8 A. So now don't -- don't turn around and say that</p> <p>9 I told you because you asked me the question --</p> <p>10 Q. And you agreed with it.</p> <p>11 A. -- and I answered it. I didn't tell you.</p> <p>12 Okay?</p> <p>13 Q. So do more officers help you to gain control</p> <p>14 of a suspect without needing to use deadly force based</p> <p>15 on your experience?</p> <p>16 MR. ORTEGA: Objection -- excuse me,</p> <p>17 sir -- objection, form, calls for speculation.</p> <p>18 MR. JEEP DARNELL: Same objections.</p> <p>19 Q. (By Mr. Gage) Now you can answer.</p> <p>20 A. Well, I -- I must agree with you somewhat, of</p> <p>21 course.</p> <p>22 Q. Okay. Explain why you agree with me.</p> <p>23 A. Well, because logic has it that -- that if you</p> <p>24 have more -- more people to control somebody, then --</p> <p>25 then it's going to be easier to control the person with</p>
<p style="text-align: right;">83</p> <p>1 Q. (By Mr. Gage) Agreed.</p> <p>2 A. Okay.</p> <p>3 Q. But one of the reasons you want more backup is</p> <p>4 actually having more officers present can help you to</p> <p>5 gain control over a suspect who is resisting actually</p> <p>6 easier and with less harm to that person than when just</p> <p>7 one or two people are there. Correct?</p> <p>8 MR. JEEP DARNELL: Objection, form.</p> <p>9 A. Yes, that's possible.</p> <p>10 Q. (By Mr. Gage) And one of the reasons for that</p> <p>11 is is if you only have one or two people, they can't</p> <p>12 get the kind of control over the person the way a group</p> <p>13 can. Right?</p> <p>14 MR. JEEP DARNELL: Objection, form.</p> <p>15 MR. ORTEGA: Objection, form and calls</p> <p>16 for speculation.</p> <p>17 A. Yes, sir, you're -- you're -- you're partly</p> <p>18 right there.</p> <p>19 Q. (By Mr. Gage) And what else would in your</p> <p>20 mind help to avoid more serious injuries or force to a</p> <p>21 suspect when there's a lot of officers there?</p> <p>22 MR. ORTEGA: Objection, form.</p> <p>23 A. If -- with a lot of officers? Well, I'm not</p> <p>24 sure that I -- I understand the question. I'll have to</p> <p>25 ask you to repeat it.</p>	<p style="text-align: right;">85</p> <p>1 less likelihood of injury to the person, the subject</p> <p>2 under arrest, or officers.</p> <p>3 Q. Was it typical for you as a G4S officer to</p> <p>4 report directly to the Pebble Hills regional center?</p> <p>5 A. Yes, sir.</p> <p>6 Q. On March 8th, 2013, did Daniel say that he was</p> <p>7 using any drugs that day?</p> <p>8 A. To the best of my recollection, no, he did not</p> <p>9 say he was using drugs that day.</p> <p>10 Q. Did Daniel say that he had used drugs the day</p> <p>11 before on March 7th, 2013, when he spoke to you on</p> <p>12 March 8th?</p> <p>13 A. I don't think he made any statement to that</p> <p>14 fact to me.</p> <p>15 Q. Did you conduct any field sobriety tests on</p> <p>16 Daniel on March 8th, 2013, to help form an opinion of</p> <p>17 whether or not Daniel was under the influence of any</p> <p>18 drugs that day?</p> <p>19 A. No, sir, that is not my job.</p> <p>20 Q. Did you observe anybody doing any field</p> <p>21 sobriety tests on Daniel to see if he was under the</p> <p>22 influence of drugs that day?</p> <p>23 A. No, sir, I did not observe.</p> <p>24 Q. Did you conduct any blood, breath or urine</p> <p>25 tests on Daniel to see if he was under the influence of</p>

<p style="text-align: right;">86</p> <p>1 drugs on March 8th, 2013?</p> <p>2 A. No, sir, that was not my job.</p> <p>3 Q. Did you see anyone else doing any blood,</p> <p>4 breath or urine tests on Daniel that day to see if he</p> <p>5 was under the influence?</p> <p>6 A. I did not see anybody.</p> <p>7 Q. Did anyone tell you that they had conducted</p> <p>8 any blood, breath or urine tests on Daniel on that day?</p> <p>9 A. Nobody volunteered the information nor did I</p> <p>10 ask anybody.</p> <p>11 Q. Has anyone ever told you that there were any</p> <p>12 tests that showed that Daniel was under the influence</p> <p>13 of drugs on March 8th, 2013?</p> <p>14 A. No, sir.</p> <p>15 Q. Have you ever seen someone with a crazy look</p> <p>16 in their eyes?</p> <p>17 A. Yes.</p> <p>18 Q. What does a crazy look in one's eyes look like</p> <p>19 to you?</p> <p>20 A. Somebody who is obviously not in complete</p> <p>21 control of their mental and physical faculties and</p> <p>22 their eyes are -- are -- are big, wide open and glassy</p> <p>23 looking and their language is obscene.</p> <p>24 There was this other guy that was on</p> <p>25 coke, he was -- he was scary. He was scary. I -- I --</p>	<p style="text-align: right;">88</p> <p>1 A. Not that I can remember.</p> <p>2 Q. In the cell that Daniel was in, there was a</p> <p>3 bench. Correct?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And that bench had a metal circular ring that</p> <p>6 you could attach handcuffs to. Correct?</p> <p>7 A. I don't know if it's in the bench or if</p> <p>8 it's -- if it's -- if it's on the wall.</p> <p>9 Q. I'll show you some photographs we marked</p> <p>10 previously. This is Exhibit 61.</p> <p>11 You'll see there's a -- it looks like a</p> <p>12 bench, then there's a metal circle with handcuffs</p> <p>13 attached to it. Do you see that?</p> <p>14 A. I do, sir.</p> <p>15 Q. The cell that Daniel was in on March 8th,</p> <p>16 2013, did it have that setup with the circle and</p> <p>17 handcuffs?</p> <p>18 A. You're saying it did not?</p> <p>19 Q. Did it have that?</p> <p>20 A. Oh. I do not remember.</p> <p>21 Q. All right. Do you know if Daniel was</p> <p>22 handcuffed to that metal circular object attached to</p> <p>23 the bar?</p> <p>24 A. I do not remember that.</p> <p>25 Q. I'll show you photograph Exhibit 60.</p>
<p style="text-align: right;">87</p> <p>1 I didn't want to even get up to the cell. I never --</p> <p>2 it was -- it was scary, that's all I can tell you.</p> <p>3 Q. Who is that guy you're referring to?</p> <p>4 A. I don't know. Some guy they brought in. I do</p> <p>5 not know who he was.</p> <p>6 Q. Obviously obscene language has nothing to do</p> <p>7 with a crazy look in one's eyes because one's a look</p> <p>8 and the other is a --</p> <p>9 A. Well, yes, the language I guess is vocal.</p> <p>10 Q. And then when people appear to have problems</p> <p>11 with their mental or physical faculties, if they're</p> <p>12 under your care as a law enforcement officer, were you</p> <p>13 taught what you were supposed to do to help those</p> <p>14 people?</p> <p>15 MR. ORTEGA: Objection, form.</p> <p>16 Q. (By Mr. Gage) If anything.</p> <p>17 A. I do not have an independent recollection of</p> <p>18 any training that I received for that.</p> <p>19 Q. Do you have an independent recollection of any</p> <p>20 training G4S security ever gave to you for handling</p> <p>21 individuals with any kind of mental or physical</p> <p>22 capacity problems?</p> <p>23 A. No, sir, I do not.</p> <p>24 Q. Did you ever see Daniel urinate on himself in</p> <p>25 the cell on March 8th, 2013, or actually at any time?</p>	<p style="text-align: right;">89</p> <p>1 Is that a fair and accurate</p> <p>2 representation of the way the cells looked at the</p> <p>3 Pebble Hills facility to your recollection?</p> <p>4 A. Yes, sir, to the best of my recollection it</p> <p>5 is.</p> <p>6 Q. Exhibit 62.</p> <p>7 Is this a fair and accurate recollection</p> <p>8 [sic] of the way the bench looked at Pebble Hills in</p> <p>9 March of 2013?</p> <p>10 A. Well, I don't know because I don't remember if</p> <p>11 they were all that -- that type of grated metal or</p> <p>12 whether they were solid steel metal. I don't remember.</p> <p>13 Q. Exhibit 63.</p> <p>14 Is this a fair and accurate</p> <p>15 representation of the way the Pebble Hills Regional</p> <p>16 Command Center looked in 2013?</p> <p>17 A. Yes, sir, very likely.</p> <p>18 Q. Okay. If I may borrow that for a moment.</p> <p>19 There is it looks like a video camera in</p> <p>20 the left top corner of Exhibit 63 and there's also a</p> <p>21 circular item on the ceiling.</p> <p>22 First, do you know where that video</p> <p>23 camera would take videos of?</p> <p>24 A. No, sir, I do not know.</p> <p>25 Q. Do you know if the circular object also would</p>

<p style="text-align: right;">90</p> <p>1 be able to take video pictures of the regional command 2 center?</p> <p>3 A. I do not know, sir.</p> <p>4 Q. Do you know whether or not there are any video 5 cameras showing Daniel when he was in the cell at the 6 regional command center?</p> <p>7 A. I do not know that.</p> <p>8 Q. Looking at Exhibit 64, is this a fair and 9 accurate representation of those cells at the regional 10 command center, cell numbers 2, 3, 4, 5 and 6?</p> <p>11 A. I'm trying to remember what the -- exactly 12 what that cell area looked like. But -- but, yes, it's 13 very likely that that -- that could be -- it could be 14 it or it could be similar to -- to what is there.</p> <p>15 Q. Okay. Great. I'll take all those back from 16 you, please.</p> <p>17 Do you recall if Daniel was cuffed to 18 that circular item in his cell or not?</p> <p>19 A. No, sir, I do not recall.</p> <p>20 Q. Would it be possible for Daniel to lay on the 21 floor if he was cuffed to that circle in the 22 photographs?</p> <p>23 MR. ORTEGA: Objection, calls for 24 speculation.</p> <p>25 A. Gee, I -- possible? Yes. Possible, yes.</p>	<p style="text-align: right;">92</p> <p>1 conclusion and speculation.</p> <p>2 MR. JEEP DARNELL: Same objections.</p> <p>3 A. Did I ever see anything that Daniel Saenz did. 4 No, sir, I did not.</p> <p>5 Q. (By Mr. Gage) Did he ever do anything to the 6 pocket of your shirt?</p> <p>7 A. Daniel was standing to my left -- and I don't 8 remember if we were outside or inside. I always carry 9 my gun on my right side, I'm right-handed, and you 10 always keep your weapon away from anybody that -- that 11 you're with. And he came up and -- I don't remember if 12 he bit the -- my -- my collar or the -- the flap over 13 my -- my shirt pocket and that -- that kind of -- I 14 mean it didn't -- it didn't startle me because -- but 15 it kind of caught me by surprise and I thought to 16 myself, "Well, wait a minute, maybe -- maybe he's not 17 near as -- as incoherent and out of it as -- as I first 18 thought."</p> <p>19 And I -- and I questioned -- I just 20 questioned to myself. Okay? That's all I can say 21 about that.</p> <p>22 Q. How did you get him away from your collar or 23 shirt pocket?</p> <p>24 A. He just let go of it. I didn't need to push 25 him away or -- or anything.</p>
<p style="text-align: right;">91</p> <p>1 Q. (By Mr. Gage) How would that happen? How 2 could he do that with his arms behind his back?</p> <p>3 A. It all depends on -- on -- how -- how he can 4 move his muscles and his arms. You know -- you know, 5 there's a lot of things that are possible.</p> <p>6 Q. Were you ever in fear for your life or safety 7 at any time that you were with Daniel Saenz on 8 March 8th, 2013?</p> <p>9 A. In fear? No, sir.</p> <p>10 Q. At any time that you've been around 11 Daniel Saenz, were you ever in fear for your health or 12 safety or well-being from him?</p> <p>13 A. No, sir, but I knew that I would not turn my 14 back on him.</p> <p>15 Q. You would not turn your back on any prisoners, 16 would you?</p> <p>17 A. Well, there's -- you know -- you know what I 18 mean. Do you know what I mean? Well, I shouldn't have 19 said that, I guess. Sorry.</p> <p>20 Q. I've learned long ago I don't speculate on 21 what a witness means. But be that as it may, did you 22 ever observe Daniel doing anything on March 8th, 2013, 23 that in your opinion justified using deadly force on 24 him?</p> <p>25 MR. ORTEGA: Objection, calls for a legal</p>	<p style="text-align: right;">93</p> <p>1 Q. How many people do you recall helping you to 2 bring Daniel to the van? Was it just you yourself or 3 were others involved?</p> <p>4 A. I can remember Officer Flores. I couldn't 5 tell you whether Romero was there or I couldn't tell 6 you if there was other -- other officers there.</p> <p>7 Q. If you felt that you needed backup in 8 transporting Daniel to the jail, were you told who you 9 could go to for that backup when you worked at G4S?</p> <p>10 A. No, sir.</p> <p>11 Q. Did you have an understanding of what you 12 should do or would do if you were transporting a 13 prisoner for G4S and you needed some kind of backup?</p> <p>14 A. Okay. Did I have an understanding?</p> <p>15 Q. Yes.</p> <p>16 A. What do you mean by understanding?</p> <p>17 Q. Well, what would you do if you needed backup 18 for a prisoner when you were working with G4S?</p> <p>19 A. I would -- would have called on the -- on the 20 police radio where I was and that I needed assistance.</p> <p>21 Q. That would be to El Paso PD. Correct?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Would it be common for the El Paso police 24 officers to follow you in a marked black and white 25 vehi- -- car when you were transporting a prisoner to</p>

<p style="text-align: right;">94</p> <p>1 the jail?</p> <p>2 A. Would it be usual?</p> <p>3 Q. Yes.</p> <p>4 A. Yes.</p> <p>5 Q. At first you transported a prisoner by the</p> <p>6 name of Kevin Johnson from the other facility to</p> <p>7 Pebble Hills. Do you recall doing that?</p> <p>8 A. No, sir.</p> <p>9 Q. Was there any officer with you when you were</p> <p>10 transporting the other prisoner to the Pebble Hills</p> <p>11 facility?</p> <p>12 A. No, sir.</p> <p>13 MR. GAGE: Let's go off record, take</p> <p>14 another break.</p> <p>15 THE VIDEOGRAPHER: We're off the record,</p> <p>16 4:33 p.m.</p> <p>17 (A recess was had.)</p> <p>18 (Discussion on the stenographic record</p> <p>19 only.)</p> <p>20 MR. GAGE: We had a conversation off the</p> <p>21 record. Jeep may be delayed tomorrow, but we all are</p> <p>22 expecting the need to leave by 4:30 to catch an</p> <p>23 airplane to Austin for depositions there on Wednesday in this</p> <p>24 case. Because of the fact that Jeep might not be here</p> <p>25 at 9:00 a.m. due to a court appearance, this is what we</p>	<p style="text-align: right;">96</p> <p>1 "No, we're not going to -- to accept him."</p> <p>2 Q. Do you know a Nurse Magdaleno,</p> <p>3 M-A-G-D-A-L-E-N-O?</p> <p>4 A. No, sir, I do not.</p> <p>5 Q. Did you hear any nurse yelling "We," meaning</p> <p>6 the jail, "are not going to accept him, a prisoner like</p> <p>7 that, call EMS," or words to that effect?</p> <p>8 A. An independent recollection of it, no, sir, I</p> <p>9 do not have.</p> <p>10 Q. Do you know if anyone called EMS from upstairs</p> <p>11 in the jail for emergency medical services to be</p> <p>12 provided to Daniel when he was bleeding?</p> <p>13 A. No, sir, I do not.</p> <p>14 Q. Do you know why Flores and Romero took Daniel</p> <p>15 back downstairs after he was rejected from the jail?</p> <p>16 Did anyone ever tell you why?</p> <p>17 MR. JEEP DARNELL: Objection, form.</p> <p>18 A. Well, I -- I -- I can only tell you what I</p> <p>19 suspect.</p> <p>20 Q. (By Mr. Gage) All right. You can tell us</p> <p>21 what you suspect, then I'll ask you the basis of that</p> <p>22 suspicion. But tell us your suspicion first, I guess.</p> <p>23 MR. ORTEGA: Mr. Matthews, testify as to</p> <p>24 what you have personal knowledge of.</p> <p>25 THE WITNESS: Oh.</p>
<p style="text-align: right;">95</p> <p>1 agreed to do. We will proceed with the deposition in</p> <p>2 the morning without him. His rights, however, to</p> <p>3 object later to the form of the question are being</p> <p>4 preserved until he arrives in the deposition.</p> <p>5 Is that accurate?</p> <p>6 MR. ORTEGA: I have no problem with that.</p> <p>7 MR. JEEP DARNELL: I have no problem with</p> <p>8 that.</p> <p>9 MR. GAGE: All right. Now we'll go back</p> <p>10 on to the audiotaped record and try to get done with</p> <p>11 this within less than an hour.</p> <p>12 THE VIDEOGRAPHER: We're back on the</p> <p>13 record, 4:43 p.m.</p> <p>14 Q. (By Mr. Gage) Do you know a Corporal</p> <p>15 Covington?</p> <p>16 A. No, sir, I do not.</p> <p>17 Q. Do you know a Nurse Rosales?</p> <p>18 A. No, sir, I do not.</p> <p>19 Q. Did you ever hear the nurse indicate that the</p> <p>20 jail could not accept Daniel because he was bleeding</p> <p>21 too profusely or words to that effect?</p> <p>22 A. I'm trying to think who -- I -- I don't</p> <p>23 remember what nurse or nurses were there, I couldn't</p> <p>24 tell you if there was one or two. And -- and I can't</p> <p>25 tell you that yes, I heard the nurse say -- say that,</p>	<p style="text-align: right;">97</p> <p>1 Q. (By Mr. Gage) But I can ask you what you</p> <p>2 suspect and then find out what's the basis of it.</p> <p>3 That's appropriate.</p> <p>4 A. I do not have personal knowledge, sir.</p> <p>5 Q. Okay. Do you have a personal suspicion?</p> <p>6 MR. JEEP DARNELL: Objection, calls for</p> <p>7 speculation.</p> <p>8 MR. ORTEGA: Same objection.</p> <p>9 A. To call EMS.</p> <p>10 Q. (By Mr. Gage) Yes.</p> <p>11 A. That's -- that's -- that's probably why they</p> <p>12 took him down was to call EMS.</p> <p>13 Q. Could you call EMS from the jail itself?</p> <p>14 A. I do not know.</p> <p>15 Q. Did you help to escort Daniel in the jail at</p> <p>16 all?</p> <p>17 A. No, sir, I do not think so.</p> <p>18 Q. Did Flores or Romero ask you for assistance at</p> <p>19 the jail at all?</p> <p>20 A. No, sir, not that I can recollect.</p> <p>21 Q. Did you talk to Romero about the incident</p> <p>22 after the shooting happened?</p> <p>23 A. I do not have an independent recollection of</p> <p>24 us talking about it, so I can only say I don't recall.</p> <p>25 Q. Did you stay with Mr. Johnson at all points</p>

<p style="text-align: right;">98</p> <p>1 that you were outside between the time the van came to 2 the jail until you entered the jail? 3 A. Did I stay with him? 4 Q. Yes. 5 A. Well, I probably stayed with -- close to him, 6 but it's very likely that -- because he was a slow 7 walker -- that I asked him to -- to walk on down the 8 sidewalk while I gathered up their personal belongings 9 that we -- that we carry. Excuse me. So was he right 10 beside me? I do not know. 11 Q. Did you ever leave Mr. Johnson alone to give 12 any assistance to Flores or Romero at any time? 13 A. No, sir. 14 Q. And that is to give assistance with respect to 15 Mr. Daniel Saenz you understood -- 16 A. Yeah. 17 Q. Let me reask the question. 18 A. Okay. 19 Q. Did you ever leave your prisoner, Mr. Johnson, 20 to give assistance to Romero or Flores with regards to 21 Daniel Saenz? 22 A. Not that I can remember. 23 Q. You don't remember doing that, in other words. 24 A. No, sir, I do not. 25 Q. If you saw that Flores and Romero needed</p>	<p style="text-align: right;">100</p> <p>1 A. Yes, sir. 2 Q. The bigger one looks like it has a bus in it 3 and then there's a smaller one and to the right of that 4 is where the door is. Correct? 5 A. Yes, sir. 6 Q. And where was your car parked -- the van 7 parked when you took them in to the jail? Do you see 8 that in the picture? 9 A. No, sir, I do not see it in the picture. 10 Q. I'll show you Exhibit 65. Do you see it in 11 that area where your car was parked? 12 A. No, sir. 13 Q. All right. Can you describe for us where the 14 car was parked in relation to Exhibit 65. 15 A. This is -- this is Campbell Street right here. 16 Down this -- facing -- facing -- facing the -- this 17 jail, these doors facing it, to your right would be 18 south -- what I would call south and -- and the jail is 19 on a whole city block of -- of -- there within the city 20 of El Paso in El Paso County. 21 So the next street over is Overland 22 street and -- and it would be on -- on -- on Campbell 23 Street, but I couldn't tell you how far from Overland 24 street -- I do not remember how far from Overland 25 street towards -- towards this wall, because this is a</p>
<p style="text-align: right;">99</p> <p>1 assistance in controlling Daniel Saenz, would you have 2 left your prisoner to aid them? 3 A. Yes, sir. 4 Q. Was there anything that blocked your view of 5 what was going on between Daniel, Romero and Flores 6 while they were outside at any time? 7 A. Well, it -- it could be that they got to the 8 ramp before I got over there with the -- with the 9 gentleman that I was escorting. 10 Q. But you were there 15 to 20 feet behind them 11 at all times going down the ramp to the jail. Correct? 12 A. Well, but not -- yes, unless they made the 13 turn before we got to the -- to the corner to make the 14 turn to go down the ramp. 15 Q. I'm showing you what's been marked as 16 Exhibit 66. 17 Is that a fair and accurate 18 representation of the ramp going to the jail? 19 A. Yes, sir, except I do not see the -- the 20 pass-through door -- the people door, that's over on 21 the right. 22 Q. That would be to the right of the smaller -- 23 A. The single -- 24 Q. That would be to the right of the smaller 25 garage area. Correct?</p>	<p style="text-align: right;">101</p> <p>1 wall that goes down to the ramp. 2 Q. Okay. The wall on the right side of 3 Exhibit 65, it looks like it has windows or something 4 near the top part of it. Correct? 5 A. Well, it's -- that's just a decoration barrier 6 concrete that's -- that's up above -- up above this. 7 Q. How far away from the smaller garage door that 8 we see here in Exhibit 65 were you parked, 9 approximately? 10 A. How far away from it? 11 Q. Yes. 12 A. I don't even know. 13 Q. 20 feet? 30 feet? 14 A. No, much more than that, because I -- I 15 couldn't even estimate how -- how many feet of this 16 ramp is to -- to Campbell Street or to the sidewalk, I 17 wouldn't even begun to even estimate that. 18 Q. If Daniel was extremely combative and violent, 19 did you have the opportunity to park the van all the 20 way down that ramp closer to the entrance of the jail 21 rather than having him walk for a long distance where 22 he might be able to escape and get into the community? 23 A. Prior to -- to arriving at the jail then, 24 Daniel was cooperative. 25 Q. So there was no need for you to go closer</p>

<p style="text-align: right;">102</p> <p>1 because Daniel was cooperative at all times until you 2 arrived at the jail. Correct?</p> <p>3 A. Yes, sir.</p> <p>4 MR. JEEP DARNELL: Objection --</p> <p>5 Q. (By Mr. Gage) If he had not been cooperative, 6 then you had the ability to park closer to the jail. 7 True?</p> <p>8 MR. JEEP DARNELL: Real quick, let me 9 finish my objection to the last one. 10 Assumes facts not in evidence.</p> <p>11 Q. (By Mr. Gage) Go ahead.</p> <p>12 MR. ORTEGA: Do you recall the question? 13 THE WITNESS: Yes.</p> <p>14 A. Do I have the ability to park closer.</p> <p>15 Q. (By Mr. Gage) Right.</p> <p>16 A. On that particular day, I don't remember how 17 far we were from -- parked. But if there is -- if 18 there is -- my goodness -- if -- if -- if there is one 19 or two or three other vehicles parked ahead of you up 20 closer, then -- then you're not -- you're not going to 21 get any closer, you're not going to get close to -- to 22 the ramp down there.</p> <p>23 Q. Did Daniel ever refuse to get into the van at 24 the -- before going to the jail when you were at the 25 regional center, Pebble Hills?</p>	<p style="text-align: right;">104</p> <p>1 Q. When you got to the jail, who was removed 2 first from the van, was it Daniel or the other 3 prisoner.</p> <p>4 A. I do not remember exactly who was removed 5 first.</p> <p>6 Q. Did you then all five, that is Romero, Flores, 7 Daniel, the other prisoner, Mr. Johnson, and yourself 8 walk towards the ramp that leads to the jail?</p> <p>9 MR. JEEP DARNELL: Objection, form.</p> <p>10 A. Yes, sir.</p> <p>11 Q. (By Mr. Gage) The -- Johnson, Romero and 12 Flores were in front of you about 15 feet ahead, is 13 that correct, during that walk?</p> <p>14 A. Approximately, yes, sir.</p> <p>15 Q. And you were looking in their direction the 16 entire time as you were walking down the ramp. 17 Correct?</p> <p>18 A. Yes, sir.</p> <p>19 Q. But you were unable to see how Daniel ended up 20 on the ground. True?</p> <p>21 A. That is correct.</p> <p>22 Q. Did you then go ahead of Johnson and hold the 23 door open for Officer Flores?</p> <p>24 A. I don't remember.</p> <p>25 Q. At that point did you hear Daniel screaming at</p>
<p style="text-align: right;">103</p> <p>1 A. I don't think he refused to.</p> <p>2 Q. Did you -- do you recall ever physically 3 removing Daniel to the seating area of the van with him 4 resisting that when you were at the regional center?</p> <p>5 A. Now, say that again, sir.</p> <p>6 Q. Was there a time that you can recall that you 7 had to physically move Daniel to a seating area in the 8 van that he was resisting before you ever left for the 9 jail that you can recall?</p> <p>10 A. Again, I -- I do not have a real good 11 recollection of having to do that.</p> <p>12 Q. Okay. Did Daniel bang his head on the wall a 13 few times of the van as you were driving the car?</p> <p>14 A. I do remember him banging his head.</p> <p>15 Q. Did it seem hard to you?</p> <p>16 A. No, not -- not hard hard.</p> <p>17 Q. If Daniel had been banging his head hard, then 18 you would have wanted to stop to protect his 19 well-being. Correct?</p> <p>20 A. Yes, sir.</p> <p>21 Q. When you arrived at the jail, did you park on 22 Campbell facing northbound?</p> <p>23 A. Yes, sir.</p> <p>24 Q. Where was Officer Flores parked?</p> <p>25 A. I'm not real sure.</p>	<p style="text-align: right;">105</p> <p>1 all?</p> <p>2 A. I don't remember.</p> <p>3 Q. You don't remember him doing that?</p> <p>4 A. I don't remember him screaming.</p> <p>5 Q. Okay. And you don't remember any jailers 6 coming to assist, do you?</p> <p>7 A. No, sir.</p> <p>8 Q. Did you see Flores and Romero having to 9 physically bring Daniel to his feet and take him inside 10 of the door of the jail that had bars?</p> <p>11 A. Yes, sir.</p> <p>12 Q. And that's because at that point Daniel had a 13 head injury and had fallen to the ground in some 14 fashion. Is that correct?</p> <p>15 A. No, sir, that's not correct.</p> <p>16 Q. Okay. Did you see if he had any injury at the 17 time that he was on the ground?</p> <p>18 A. I did not see any injuries at that time.</p> <p>19 Q. You don't have any knowledge that Daniel had 20 cocaine addiction, do you?</p> <p>21 A. Yes, I do.</p> <p>22 Q. Okay. Did you ever see him taking cocaine?</p> <p>23 A. No, sir.</p> <p>24 Q. Did you -- do you know how he ingested it, 25 whether he would -- I don't even know how you take</p>

<p style="text-align: right;">106</p> <p>1 cocaine, but snort it or shoot it or whatever they do?</p> <p>2 A. No, I do not know.</p> <p>3 Q. Do you know the quantity of any cocaine that</p> <p>4 he used if he ever used it?</p> <p>5 A. He told me -- whenever he was a prisoner when</p> <p>6 he was brought in two or three months before, he told</p> <p>7 me that -- that he was a cocaine user.</p> <p>8 Q. Did he say if he used it once, 10 times or</p> <p>9 more?</p> <p>10 A. Well, it seemed he -- he told me that he</p> <p>11 usually does three lines a day.</p> <p>12 Q. Did he tell you how he would obtain that</p> <p>13 cocaine?</p> <p>14 A. No, sir.</p> <p>15 Q. Do you know what three lines a day even means?</p> <p>16 A. No, I do not know.</p> <p>17 Q. All right. Is three lines a day a lot or a</p> <p>18 little? Do you know?</p> <p>19 A. I do not know.</p> <p>20 Q. Do you know if three lines a day means you're</p> <p>21 an addict as opposed to just some kind of a user of</p> <p>22 cocaine?</p> <p>23 A. I do not know.</p> <p>24 Q. Do you know the purity of the cocaine, whether</p> <p>25 it was a pure cocaine or laced or -- with baking soda?</p>	<p style="text-align: right;">108</p> <p>1 this point.</p> <p>2 Do you gentlemen have any?</p> <p>3 EXAMINATION</p> <p>4 BY MR. ORTEGA:</p> <p>5 Q. Mr. Matthews, you were asked earlier by</p> <p>6 Mr. Gage if you could have radioed police for backup.</p> <p>7 Do you recall that question?</p> <p>8 A. I do, sir.</p> <p>9 Q. Do you recall what your testimony was in</p> <p>10 answering that question?</p> <p>11 A. Not word for word, but probably something like</p> <p>12 I -- I couldn't -- I couldn't call for backup.</p> <p>13 Q. Why is that?</p> <p>14 A. Well, now, the -- the -- the radio that we</p> <p>15 had -- that we have in the van is a fixed -- fixed</p> <p>16 radio, so it's -- it's installed in the -- in the van.</p> <p>17 Q. If you were inside the jail on March 8th,</p> <p>18 2013, with Daniel Saenz and you needed to call for</p> <p>19 backup to call police, would you have been able to do</p> <p>20 so?</p> <p>21 A. Not -- not by radio. I would have to have</p> <p>22 used a telephone.</p> <p>23 MR. GAGE: Was there a phone there?</p> <p>24 MR. ORTEGA: I'm sorry.</p> <p>25 MR. GAGE: You're right.</p>
<p style="text-align: right;">107</p> <p>1 A. I do not know.</p> <p>2 MR. GAGE: What's our next number, 68?</p> <p>3 (Exhibit marked, No. 68.).</p> <p>4 Q. (By Mr. Gage) I'll show you a document we'll</p> <p>5 mark as Exhibit 68.</p> <p>6 Looking at the third page of this</p> <p>7 document, is that your signature below the statement,</p> <p>8 "I have read the above statement and find it to be true</p> <p>9 and correct to the best of my knowledge"?</p> <p>10 A. Yes, sir, that is my -- my signature.</p> <p>11 Q. And is that a true statement that you read</p> <p>12 this statement and found it to be true and correct to</p> <p>13 the best of your knowledge when you read it and signed</p> <p>14 it?</p> <p>15 A. Yes, sir.</p> <p>16 Q. And you signed it on March 9th, 2013?</p> <p>17 A. Yes, sir.</p> <p>18 Q. It was under penalty of perjury at that point</p> <p>19 as you understood it. Correct?</p> <p>20 A. I did.</p> <p>21 Q. You made sure everything in this was true,</p> <p>22 accurate and complete before you read it. Correct?</p> <p>23 A. To the best of my knowledge, yes.</p> <p>24 MR. JEEP DARNELL: 68, right?</p> <p>25 MR. GAGE: I have no other questions at</p>	<p style="text-align: right;">109</p> <p>1 MR. ORTEGA: This is not your time to ask</p> <p>2 questions.</p> <p>3 MR. GAGE: You're right.</p> <p>4 Q. (By Mr. Ortega) You were also asked by</p> <p>5 Mr. Gage if Daniel Saenz was uncooperative or resisted</p> <p>6 as you were trying to get him inside the van at</p> <p>7 Pebble Hills Regional Command Center. Do you recall</p> <p>8 that?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Do you recall what your answer was in response</p> <p>11 to that question?</p> <p>12 A. No, sir, I don't.</p> <p>13 Q. My understanding was that you testified that</p> <p>14 Daniel Saenz did not resist as you were trying to load</p> <p>15 him inside the van at the Pebble Hills Regional Command</p> <p>16 Center.</p> <p>17 MR. GAGE: Objection. The testimony is</p> <p>18 the testimony and that's the best evidence. Object to</p> <p>19 the form of the question.</p> <p>20 You can answer. I don't think it's a</p> <p>21 question yet, but go ahead.</p> <p>22 Q. (By Mr. Ortega) Is that your recollection in</p> <p>23 terms of what you testified?</p> <p>24 MR. GAGE: Same objection.</p> <p>25 A. I'm -- I'm sorry, I -- I don't -- you want --</p>

<p style="text-align: right;">110</p> <p>1 MR. GAGE: Also vague and ambiguous.</p> <p>2 Q. (By Mr. Ortega) Let me -- let me rephrase.</p> <p>3 Was Daniel Saenz resisting as you were</p> <p>4 trying to load him inside the van at the Pebble Hills</p> <p>5 Regional Command Center?</p> <p>6 A. I do not think so.</p> <p>7 Q. Now, let me show you what has been previously</p> <p>8 marked as Exhibit 68.</p> <p>9 A. Uh-huh.</p> <p>10 Q. That is the statement that you provided to</p> <p>11 Detective Flores on March 8th, 2013. Is that correct?</p> <p>12 A. Yes.</p> <p>13 Yes, sir.</p> <p>14 Q. Let me direct your attention, sir, to page 2</p> <p>15 of that statement, the very first paragraph.</p> <p>16 Are you there?</p> <p>17 A. Page 2.</p> <p>18 Q. Yes, sir.</p> <p>19 A. First paragraph.</p> <p>20 Q. The first full paragraph.</p> <p>21 A. Okay.</p> <p>22 Q. In the middle of that paragraph it states:</p> <p>23 They were at the back of the van trying to get Daniel</p> <p>24 to take a seat inside the van. Daniel refused to get</p> <p>25 into the van.</p>	<p style="text-align: right;">112</p> <p>1 with you that day?</p> <p>2 A. Yes.</p> <p>3 Q. So if you needed to call the -- for backup,</p> <p>4 you could have called 911 or whatever from your cell</p> <p>5 phone. Correct?</p> <p>6 A. Yes.</p> <p>7 Q. And there was also a phone in the jail.</p> <p>8 Correct?</p> <p>9 A. Yes, sir.</p> <p>10 Q. You could have also asked anybody in the jail</p> <p>11 that had a radio to call for a backup. Right?</p> <p>12 A. Well, the -- the -- if there was another PD</p> <p>13 officer in there, yes, sir.</p> <p>14 Q. You could have called for backup from any law</p> <p>15 enforcement officers that were in the jail, they could</p> <p>16 still assist you. True?</p> <p>17 A. Probably.</p> <p>18 MR. JEEP DARNELL: I'm going to object.</p> <p>19 It calls for speculation because he was at the</p> <p>20 sheriff's department.</p> <p>21 MR. ORTEGA: Same objection.</p> <p>22 Q. (By Mr. Gage) There were other law</p> <p>23 enforcement officers you saw in the jail, many of them.</p> <p>24 Correct?</p> <p>25 A. Well, the only one that I -- that I can</p>
<p style="text-align: right;">111</p> <p>1 Did I read that correctly?</p> <p>2 A. You did.</p> <p>3 Q. You go on to say: I escorted Daniel to this</p> <p>4 area of the van and he willingly complied, but he still</p> <p>5 refused to get in. We physically moved Daniel to the</p> <p>6 seating area of the van and he resisted.</p> <p>7 Did I read that accurately?</p> <p>8 A. You did.</p> <p>9 Q. Does that help refresh your recollection?</p> <p>10 A. Yes, sir. If -- if I wrote it in this, then</p> <p>11 that's what occurred.</p> <p>12 MR. ORTEGA: Pass the witness.</p> <p>13 FURTHER EXAMINATION</p> <p>14 BY MR. GAGE:</p> <p>15 Q. You said if you wrote it in that, that's what</p> <p>16 occurred, but you also testified today under penalty of</p> <p>17 perjury, correct, as to what occurred?</p> <p>18 A. Then you can perjure me, yes, sir.</p> <p>19 Q. So how did he resist, do you recall?</p> <p>20 A. No, sir. Probably --</p> <p>21 Q. If you don't recall, then I don't want you to</p> <p>22 speculate.</p> <p>23 A. Okay. All right. Then I don't recall.</p> <p>24 MR. GAGE: I have nothing else.</p> <p>25 Q. (By Mr. Gage) Oh, did you have a cell phone</p>	<p style="text-align: right;">113</p> <p>1 remember is the trooper that was up there. And I don't</p> <p>2 know when -- when he was there. I don't remember if he</p> <p>3 was there when we got there or arrived later.</p> <p>4 Q. Certainly if you saw anybody else in the jail</p> <p>5 that was a law enforcement, if you were in need of</p> <p>6 assistance for some unruly prisoner, you would have</p> <p>7 asked for assistance. Correct?</p> <p>8 A. Yes, sir.</p> <p>9 MR. ORTEGA: Objection, form, vague,</p> <p>10 calls for speculation.</p> <p>11 MR. JEEP DARNELL: Same objections.</p> <p>12 Q. (By Mr. Gage) The jail also -- the jail also</p> <p>13 has a number of prison guards that are stationed there</p> <p>14 at all times to watch the different prisoners.</p> <p>15 Correct?</p> <p>16 A. Yes, sir.</p> <p>17 Q. So you had the opportunity, if necessary -- if</p> <p>18 it was some kind of a real emergency, you thought</p> <p>19 someone's life was in danger, for example, you could</p> <p>20 have gone to one of the guards and said, "Hey, there's</p> <p>21 this emergency. Call for help." Right?</p> <p>22 MR. JEEP DARNELL: Objection, form.</p> <p>23 MR. ORTEGA: Objection, form, vague,</p> <p>24 calls for speculation.</p> <p>25 MR. JEEP DARNELL: Same objections.</p>

114	116
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25
A. Yes, sir. MR. GAGE: I have no other questions at this point. Thank you very much. It was nice meeting you. MR. ORTEGA: No further questions. MR. JEEP DARNELL: We'll reserve for trial. THE VIDEOGRAPHER: This deposition is concluded at 5:11 p.m. (Deposition concluded.)	CERTIFICATION I, the officer before whom the foregoing deposition was taken, do hereby certify that I personally recorded the testimony of the witness whose testimony appears in the foregoing deposition; that said deposition is a true record of the testimony given by said witness; that I am neither attorney for, related to, nor employed by any of the parties to the action in which this deposition is taken, and that I am not a relative or employee of any attorney employed by the parties hereto, or financially interested in the action. Teri C. Finnegan Certificate No. 2911 Expires: 12-31-2017 Firm No. 1
115	
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	
CHANGES AND SIGNATURE PAGE LINE CHANGE REASON FOR CHANGE I, JAMES MATTHEWS, have read the foregoing deposition and hereby affix my signature that same is true and correct, except as noted herein. _____ JAMES MATTHEWS SUBSCRIBED AND SWORN TO before me this the ____ day of _____, 2017. SEAL: _____ NOTARY PUBLIC EXPIRES:_____	

<hr/> 0 <hr/> 0.10 16:17 00812 3:13 08 81:3 <hr/> 1 <hr/> 1 116:18 1:46 1:17 4:3 1:49 7:14 1:52 7:17 10 21:15 52:19 53:24 72:22 106:8 10:30 11:4 100 8:23 12:8 51:19 61:20,23 107 3:12 108 3:5 109 1:17 2:7 1100 2:11 111 3:6 115 3:8 116 3:9 12 47:2 52:19 53:25 61:10 12-31-2017 116:17 12th 2:7 13 3:18 14-CV-244PRM 1:8 15 13:18 21:20 47:2 54:22 99:10 104:12 17 21:20 54:22 1975 14:22 30:3 1980 14:23 1981 13:3 14:24 <hr/> 2 <hr/> 2 90:10 110:14,17 2:17 24:1	2:24 24:4 20 99:10 101:13 2002 13:4,23 14:10 2004 14:13 2005 12:7 14:14 2008 11:19 12:9 81:5 201 2:11 2013 3:12 17:4,16 33:11,24 37:10 59:10,23 62:7 72:12,25 73:7 76:22 85:6,11,16 86:1,13 87:25 88:16 89:9,16 91:8,22 107:16 108:18 110:11 2015 12:16 2017 1:16 4:2 115:21 212 2:15 22 3:17 23 3:18 23002 2:4 25 66:6 2911 116:17 <hr/> 3 <hr/> 3 90:10 3:13 55:21 3:28 55:24 30 73:4,7 101:13 30-something 4:14 310 2:15 35 4:15 31:22 32:2 34:13,24 35-year 35:5 59:2 <hr/> 4 <hr/> 4 3:4 12:7 90:10 4:30 94:22 4:33 94:16	4:43 95:13 40 66:6,7 45 66:7 73:5,7 <hr/> 5 <hr/> 5 90:10 5:11 1:17 114:10 50 53:25 50s 66:21 55 15:19 <hr/> 6 <hr/> 6 90:10 60 53:25 88:25 60s 37:21 61 88:10 62 89:6 63 89:13,20 64 12:19 90:8 65 100:10,14 101:3,8 66 99:16 68 3:12 107:2,3,5,24 110:8 <hr/> 7 <hr/> 700 1:18 70s 36:12,20 79901 1:18 2:7,12,16 7th 85:11 <hr/> 8 <hr/> 8 3:12 814 3:13 85 25:3 8th 33:11,24 37:10 62:6 72:25 73:7 76:22 85:6,12,16 86:1,13 87:25 88:15 91:8,22 108:17
--	--	---

110:11	address 23:21	allowed 19:22 23:8
<hr/> 9 <hr/>	adults 60:2	alone 98:11
9 1:16 3:17	advising 28:15	already 14:17
9:00 94:25	affect 30:13	altercations 36:21
911 112:4	affirmed 75:8	am 6:2 51:19 76:2 116:8,10
91367 2:4	affix 115:16	ambiguous 110:1
9th 4:2 107:16	African-American 66:21	amount 13:21 31:3,6 46:3
<hr/> A <hr/>	afternoon 4:1,12	amounted 26:6
a.m 94:25	afterwards 74:23	angel's 36:15
ability 102:6,14	against 24:7 41:2 50:19 72:2	answer 5:5,14 6:8 20:3 26:1 29:2 40:4,13 77:13 78:7 84:19 109:10,20
able 31:24 33:25 35:10 48:24 76:22 90:1 101:22 108:19	agencies 29:14 70:21 71:4 81:9	answered 49:12 84:11
absolute 43:7	ago 4:14,15 18:3 91:20	answering 108:10
accept 65:16 95:20 96:1,6	agreed 34:20 83:1 84:10 95:1	Anthony 69:1
access 81:11	agreement 74:6	anybody 17:8 18:17 28:5 31:13 36:4 57:18 68:7 85:20 86:6,10 92:10 112:10 113:4
accident 4:17 15:22	ahead 17:11,20 19:3 27:10 32:25 41:7 54:23 63:23 67:21 69:15 102:11,19 104:12,22 109:21	anymore 14:3
accuracy 75:1	aid 19:22 71:17,19 99:2	anyone 5:13 6:17 10:4 11:9 57:11 58:21 60:25 68:11 71:17 74:9 75:16,21 86:3,7,11 96:10,16
accurate 24:21 31:8 32:6,16 33:2,3 75:10 80:1 89:1,7,14 90:9 95:5 99:17 107:22	air 39:11	anything 5:22,25 7:20 9:12 10:1 17:9,22 18:13 20:21,23 26:3 28:3,12,19,22 40:23 41:3 43:24,25 47:3,7 50:11,16 55:1 57:6 58:14 60:5,6 62:23 64:3 66:10 69:2 70:19 79:15 81:1 87:16 91:22 92:3,5,25 99:4
accurately 111:7	airplane 94:23	
accused 62:5,19 64:7	alcohol 5:23 16:16,19 17:1,5,17,25 18:1 36:5	
acknowledge 18:4	alcoholic 6:3 17:24	
action 41:9 70:16 116:10,13	Alejandro 1:10 2:9	
activity 15:25	Aleman 2:18	
acts 35:1	allegation 63:14	
actually 12:7 18:4 47:14 60:15 69:9 73:25 83:4,5 87:25	allegations 9:17,20	
addict 106:21	Allick 69:1	
addiction 105:20	allow 58:18 66:13	
addition 75:16		

anywhere 13:24 44:17	82:1	112:3,11,14
appear 40:21 51:9 87:10	assist 50:8 76:23 105:6 112:16	bad 18:11 35:9 70:23
appearance 94:25	assistance 57:5,7,13 59:3 69:12 77:19 82:5 93:20 97:18 98:12,14,20 99:1 113:6,7	baking 106:25
appeared 19:21 40:12 68:13	assumes 27:8 48:9 58:24 63:21 102:10	bang 43:19 103:12
appears 116:6	assuming 38:12	banged 48:7
applied 12:1	assured 8:19	banging 41:2 43:3 46:8 103:14,17
applies 53:17	ate 11:3,4	bar 88:23
apprehending 25:2	attach 88:6	barrier 101:5
appropriate 31:7 97:3	attached 88:13,22	bars 105:10
approximately 12:9 65:22,24 73:7 101:9 104:14	attack 70:22 71:12	based 13:17 31:7 84:14
area 25:20,21 45:2 46:7 52:16,23 53:2,18,20 54:10,21 55:9,10 62:11 64:16,22 76:8,18,20 77:3,4 80:11 90:12 99:25 100:11 103:3,7 111:4,6	attention 19:6,15,17,22 20:18 110:14	basement 45:2 56:11
areas 20:16	attorney 5:8 6:7,23,25 10:12,13 116:8,11	basically 32:11 34:10
armpit 60:18	attorneys 11:10	basis 96:21 97:2
arms 60:11,12 91:2,4	audiotaped 5:1 95:10	Bassett 21:15
arrest 30:14 35:3 37:4,7 85:2	Austin 94:23	Bates 3:13
arrested 8:3 19:12 30:17 34:5 36:1 37:3,22 59:24 64:1,4	authorized 77:6	beat 35:19
arrests 35:9	available 16:21	become 29:9
arrive 65:21	avoid 83:20	beginning 22:17 53:7
arrived 27:2,4 65:25 102:2 103:21 113:3	aware 24:8,20 27:21 28:5 29:9 59:6 70:11 76:2	begun 101:17
arrives 95:4	away 30:17 46:25 66:25 67:2 72:21 92:10,22,25 101:7,10	behalf 1:5
arriving 101:23	<hr/> B <hr/>	behind 30:20 39:16 46:19,24 56:5 91:2 99:10
assault 19:12	backup 69:5,13,20 72:6,8,13 82:11,16 83:3 84:2 93:7,9,13,17 108:6,12,19	beings 36:8
assigned 37:9 76:17,18 77:2,14		believe 33:2 47:10 59:10 74:24
		believed 18:14 50:18
		belongings 98:8
		belt 39:15
		belts 39:11,24
		bench 88:3,5,7,12 89:8
		benches 39:9,10,14
		beside 98:10

besides 10:4	Boulevard 2:4	24:7 48:4 70:22 78:4 79:25 94:24
best 5:20 17:12 20:14 54:1,9 73:3,6 74:15 75:13 85:8 89:4 107:9,13,23 109:18	box 76:12	catch 94:22
bet 34:12	Bradley 2:3	categories 20:17,19
bgage@goldbergandgag e.com 2:5	brand-new 73:15	caught 92:15
biceps 61:9	break 6:18 46:14 55:14 80:8 94:14	cause 15:23 48:3
bigger 100:2	breath 16:7 85:24 86:4,8	caused 47:8 58:7
bit 13:20,22 21:15 31:1 34:19 37:20 92:12	briefings 71:3	causes 61:22
black 68:3,22 93:24	bring 93:2 105:9	causing 33:25
blank 22:10	bringing 46:19	ceiling 89:21
bleed 64:21	brought 8:12 87:4 106:6	cell 9:2 25:20,21,24 52:23 53:2 54:21 55:9,10 62:11 76:7,18,20 77:3,4 80:11 81:18,20 87:1,25 88:2,15 90:5,10,12,18 111:25 112:4
bleeding 44:6 45:24 46:1 51:3,7 65:16 95:20 96:12	bunch 22:7	cells 8:12 89:2 90:9
block 100:19	bus 100:2	center 21:15 38:2 40:20 44:3,19 63:4,11,19 64:9 72:1,19 73:12 85:4 89:16 90:2,6,10 102:25 103:4 109:7,16 110:5
blocked 47:3 99:4	<hr/> C <hr/>	Centers 73:13
blood 16:16,19 17:4 46:3 56:1 65:1,4,6 85:24 86:3,8	cab 39:17	certainly 67:11 113:4
bloodshot 16:14 18:21	California 2:4	Certificate 3:9 116:17
blow 16:25	calm 35:17	CERTIFICATION 116:1
body 44:17 81:10 82:11	camera 89:19,23	Certified 4:8
bodybuilding 60:6	cameras 90:5	certify 116:4
booked 66:14	Campbell 100:15,22 101:16 103:22	chain 13:12
booking 52:15,22 53:1,18,20 54:9 55:1,7	capacity 87:22	challenges 14:7
books 14:24	captain 21:22	chance 5:5 44:4 74:25
border 11:22,23 24:24 25:1,2,14,15	car 39:5 57:20 93:25 100:6,11,14 103:13	chances 64:19
borrow 89:18	card 23:5,7,9	change 5:6,7 115:2
bottom 49:1	cards 23:11,14,16	
	care 9:7,10 19:8 20:1 30:2 41:22 42:7,19 43:1 77:3 80:14,20 87:12	
	career 29:8 31:20 35:5 59:2	
	carries 4:22	
	carry 23:8 92:8 98:9	
	case 7:5,19 11:10	

CHANGES 3:8 115:1	communications 72:1	contract 11:21
check 17:4	community 101:22	24:19,23,24
chevrons 15:4	company 11:17	25:11,14,15,19
children 60:2 81:19	24:6,7,10 28:6	73:16,23
circle 88:12,16	compartment 39:15,19	control 31:6 32:12
90:21	complete 11:13 75:3	33:25 35:10,18 40:1
circular 88:5,22	86:20 107:22	56:19 83:5,12
89:21,25 90:18	complied 111:4	84:3,13,24,25 86:21
city 3:13 15:14 56:6	computer 76:11	controlling 99:1
100:19	computers 81:18,20	conversation
Civil 1:16 9:21	concern 68:15	62:16,25 94:20
clairvoyant 54:7	concerned 67:16,25	convicted 37:6
clear 55:8	71:8	cooperate 8:23 52:13
clock 10:24	concluded 114:10,11	57:3
close 10:25 98:5	conclusion 50:21	cooperated 32:14
102:21	92:1	cooperating 58:8
closed 51:24	concrete 101:6	82:12,17
closely 5:12	condition 65:10	cooperation 34:3,7
closer 101:20,25	conditioner 39:11	cooperative 8:4,16
102:6,14,20,21	conduct 17:14	9:4,8 18:13
cocaine 8:19	85:15,24	58:10,15 101:24
105:20,22	conducted 86:7	102:1,5
106:1,3,7,13,22,24,	connection 29:17	cordial 18:12 59:17
25	30:1	corner 89:20 99:13
coffee 11:5	conscious 41:22	corporal 15:4,9
coke 59:17 86:25	52:4,5	95:14
collar 92:12,22	consciousness 51:9	correct 11:1 17:1
combative 8:16 9:9	consist 41:10	19:18 29:6 30:20
33:14 34:20 35:17	consisted 30:6	31:25 34:1,15 35:1
70:4,11,15 101:18	consistent 48:15	39:5 40:17 42:11
comes 20:6 27:14	contact 34:25 59:9	43:1 44:4,20,22
coming 105:6	71:11 81:10	45:5 49:1 51:22
command 13:12 30:18	contained 75:25	55:8 57:14 59:10
44:3,18 64:9 72:19	continue 12:20 64:15	62:13 63:2,4,11
73:12,13 89:16	continued 73:22	66:15 72:6,7
90:1,6,10 109:7,15	continuing 43:19	73:9,23 74:2,3,18
110:5	64:21	78:14 79:5,14 80:2
comment 5:8	continuum 30:16	82:13,20 83:7 84:4
common 19:4 42:18,24		88:3,6 93:21
53:9 93:23		99:11,25 100:4
		101:4 102:2 103:19
		104:13,17,21
		105:14,15
		107:9,12,19,22

110:11 111:17 112:5,8,24 113:7,15 115:17 correction 5:6,8 correctly 27:21 111:1 count 35:4 counter 31:3 County 72:19 100:20 couple 12:23 15:16 course 20:25 21:4,6,10 33:5 68:20 84:21 court 1:1 3:9 4:5,8,23 5:2 6:14 23:22 78:18,22 79:1 94:25 Covington 95:15 CPR 20:5 crazy 86:15,18 87:7 criminal 15:25 35:1 CSR 1:25 cuff 60:25 cuffed 60:20,22,23 61:5,6,19,21 90:17,21 custody 17:3,15 19:8 29:10 30:2 32:10 33:23 34:15,18,19 35:4,8 41:19,22 42:7,25 61:3 cuts 44:9 <hr/> D <hr/> damage 48:3 danger 113:19 dangerous 67:1 Daniel 1:6 7:5 8:2,6,7,9,17,25 9:9,22 17:3,15,23 32:9,18 33:10 36:25	37:9 40:19 41:1 43:3,13,19 44:2,17,21 45:7,18,24 46:8,17 47:7 48:6,21,25 49:3,9,18 50:2,5,9,11,16,25 52:4,10 58:14 59:9,22 60:1,9,14 61:1,18 62:5,19 63:15,19 64:1,3,7,11,15 65:10,22 66:9,11,13 67:14 68:8,12,23 74:9 85:6,10,16,17,21,25 86:4,8,12 87:24 88:2,15,21 90:5,17,20 91:7,11,22 92:3,7 93:2,8 95:20 96:12,14 97:15 98:15,21 99:1,5 101:18,24 102:1,23 103:3,7,12,17 104:2,7,19,25 105:9,12,19 108:18 109:5,14 110:3,23,24 111:3,5 Daniel's 44:13 48:13 56:1 65:1 Danny 18:2 Darnell 2:14,15 17:10 30:23 31:11 32:22 41:6 42:2 46:10,13 48:11,19 50:22 54:14 55:14,16,19 57:23 58:24 63:8,21 67:20 74:4,5 77:8 81:21 82:15,22 83:8,14 84:18 92:2 95:7 96:17 97:6 102:4,8 104:9 107:24 112:18 113:11,22,25 114:7 date 4:2 Dated 3:12	day 5:25 9:11 25:12 33:10 63:1,16 65:21 68:8,25 72:24 73:1 85:7,9,10,18,22 86:4,8 102:16 106:11,15,17,20 112:1 115:21 days 15:19 16:9 76:9 deadly 82:20,24 84:14 91:23 deal 23:18 32:3 35:16 70:16 Deceased 1:6 December 14:23 decent 16:14 41:24 decoration 101:5 Def 3:13 Defendant 2:13 Defendants 1:11 2:9 define 80:16 definition 53:9 delayed 94:21 demeanor 18:16 35:7 department 12:4 14:16 24:20 25:19,22 29:23,24 36:7 38:25 72:5,17 75:13,17,21,24 112:20 department's 19:10 depends 91:3 depos 4:19 94:23 deposition 1:14 4:3,13,21 5:3 6:18,19 7:3 9:15 10:20 22:9 23:20 53:8 95:1,4 114:9,11 115:16 116:4,6,7,10 depositions 10:18 deputy 56:18 68:22
---	---	---

describe 39:7 100:13	12:4,11 13:1	57:20 103:13
DESCRIPTION 3:11	14:1,16,17	drug 6:2 8:18 16:4
detail 63:13	divider 39:10	36:13 52:14,22
detainees 11:22	DIVISION 1:3	drugs 5:22 8:14
25:1,22	document 47:21	17:5,17,25 35:23
detainee's 76:8	107:4,7	36:5,8 37:1
detective 74:12,14	documents 10:19	85:7,9,10,18,22
110:11	22:13 23:2 28:14	86:1,13
detention 72:19	doggone 55:12	due 94:25
determine 16:18 52:3	dollars 12:23	DUI 16:20
develop 15:23 16:10	done 41:3,21 58:21	during 10:15 12:6
developed 32:3	67:24 95:10	62:25 104:13
device 78:24	door 44:22,23	dust 36:15
devices 58:18	45:8,19,21 46:21	duties 25:24 26:4
difference 15:15	47:1,8 48:14,25	41:17 72:15
53:6,19 79:19	49:17,19,20,21,23	80:3,5,13
different 14:7,8	50:2,6,9 52:17	dwindle 25:13
15:13 22:7 33:11	54:21 99:20 100:4	
34:14 75:12,23	101:7 104:23 105:10	<hr/>
113:14	doors 52:24,25	E
differently 34:15	53:1,3,18,21	earlier 24:18 37:3
difficult 80:25	54:10,24 55:2,6,8	61:4 63:16 108:5
diffuse 31:24 32:3	100:17	early 37:21
direct 110:14	doorway 48:7	easier 83:6 84:25
direction 104:15	double 52:24	East 2:11
directly 72:5 85:4	53:1,3,18,21	easy 9:3
disabled 59:7	54:10,24 55:2,5,7	eat 11:2
discuss 7:1 9:13	60:20,22	effect 68:9 95:21
discussed 10:1,17	61:5,6,19,21	96:7
Discussion 6:4 78:25	downstairs 56:11	effects 36:7
94:18	96:15	efforts 60:6
discussions 75:20	downtown 74:12	eight 54:25
dispatch 81:10	drag 64:15	either 22:19 48:5
disruptive 82:25	dragged 52:10 64:22	El 1:3,18 2:7,12,16
distance 53:12,18,20	68:13	12:2,3 13:25 14:19
54:9,19 101:21	dragging 60:11	15:3,7 19:18 21:11
distinction 53:15	drawing 12:24	24:19 25:19,24
district 1:1,2	drinking 11:5	29:23,24 30:5 36:6
	drive 72:24 73:2,8	38:8,12,16,25
	driver 39:16	39:1,3 56:7
	driving 16:1,6 40:24	72:16,19
		73:9,13,23,25
		81:13,15,16

<p>93:21,23 100:20</p> <p>electronic 78:24</p> <p>elephant 36:15</p> <p>elevator 45:22</p> <p>50:13,18 51:1,15</p> <p>52:4 54:24 56:13,16</p> <p>64:11</p> <p>elevators</p> <p>52:17,19,20</p> <p>eleven 54:25</p> <p>else 9:12 10:1,4</p> <p>11:9 14:9 38:3</p> <p>57:11,18 58:14</p> <p>83:19 86:3 111:24</p> <p>113:4</p> <p>E-Mail 2:5,8,12,16</p> <p>emergency 77:5,7,18</p> <p>78:4,14 79:4 80:1</p> <p>96:11 113:18,21</p> <p>emotional 18:8</p> <p>employed 116:9,11</p> <p>employee 23:10 27:15</p> <p>116:11</p> <p>employees 19:18 25:4</p> <p>27:22 28:6</p> <p>EMS 96:7,10</p> <p>97:9,12,13</p> <p>encountered 36:20</p> <p>enforcement 15:18</p> <p>29:8 34:14 36:22</p> <p>42:5,6,16 68:12,15</p> <p>70:21,23 77:20 81:8</p> <p>87:12 112:15,23</p> <p>113:5</p> <p>engaged 34:25</p> <p>enter 49:18</p> <p>entered 45:4 98:2</p> <p>entering 45:8,9</p> <p>46:16</p> <p>entire 104:16</p> <p>entrance 48:22,25</p>	<p>101:20</p> <p>escape 101:22</p> <p>escort 97:15</p> <p>escorted 26:8 111:3</p> <p>escorting 72:12 99:9</p> <p>essentially 30:20</p> <p>ESTATE 1:6</p> <p>estimate 53:7,11,23</p> <p>54:1,9,15,22,25</p> <p>66:1 72:22 73:3,6</p> <p>79:21 101:15,17</p> <p>events 47:22</p> <p>eventually 25:10</p> <p>everybody 39:23</p> <p>everything 5:2,17</p> <p>52:8 69:17 75:9</p> <p>77:24 107:21</p> <p>evidence 27:9 32:23</p> <p>48:10 58:25 63:22</p> <p>102:10 109:18</p> <p>exact 13:16 14:22</p> <p>exactly 37:5 52:8</p> <p>65:12 66:24 73:1</p> <p>80:25 90:11 104:4</p> <p>Examination 3:4,5,6</p> <p>4:10 108:3 111:13</p> <p>example 20:18 32:9</p> <p>113:19</p> <p>except 99:19 115:17</p> <p>excuse 26:11 45:2</p> <p>84:16 98:9</p> <p>Exhibit 3:11</p> <p>88:10,25 89:6,13,20</p> <p>90:8 99:16</p> <p>100:10,14 101:3,8</p> <p>107:3,5 110:8</p> <p>exist 81:20</p> <p>expanded 73:25</p> <p>expect 8:14</p> <p>expecting 94:22</p>	<p>experience 14:7 32:2</p> <p>36:21 84:15</p> <p>expert 16:4,5</p> <p>Expires 115:24</p> <p>116:17</p> <p>explain 30:5 39:2</p> <p>53:8 84:22</p> <p>extremely 34:19</p> <p>101:18</p> <p>eyes 16:14 17:23</p> <p>18:21 51:24</p> <p>86:16,18,22 87:7</p> <hr/> <p style="text-align: center;">F</p> <hr/> <p>face 44:4,10,13</p> <p>45:10 62:20 63:15</p> <p>64:8,22 65:2</p> <p>facilities 72:21</p> <p>facility 21:12 44:25</p> <p>72:20 89:3 94:6,11</p> <p>facing 100:16,17</p> <p>103:22</p> <p>fact 29:9,15 33:3</p> <p>68:12 85:14 94:24</p> <p>facts 27:9 32:22</p> <p>48:9 58:24 63:21</p> <p>102:10</p> <p>faculties 86:21</p> <p>87:11</p> <p>fair 42:3 89:1,7,14</p> <p>90:8 99:17</p> <p>fairly 9:22 16:13</p> <p>fallen 105:13</p> <p>falling 25:3</p> <p>fashion 60:19 74:23</p> <p>105:14</p> <p>fear 91:6,9,11</p> <p>Federal 1:15</p> <p>feed 11:7</p> <p>feel 6:3 30:10 58:7</p> <p>59:15 62:24</p>
--	--	--

feet 31:17 52:18,19 53:25 54:22,25 99:10 101:13,15 104:12 105:9 felt 34:4 93:7 female 62:6,20 63:15 64:8 65:8 fiberglass 43:15 field 14:8 16:11,12,23 17:14 85:15,20 fight 31:17 financially 116:12 fine 8:21 59:19 66:2 fingerprinted 26:11 fingerprints 26:13 76:8 fingers 76:9 finish 102:9 finished 54:6 Finnegan 1:25 116:16 firearm 23:8 firm 10:13 116:18 first 18:11 39:4 45:8 47:1 49:20 89:22 92:17 94:5 96:22 104:2,5 110:15,19,20 fitness 60:3 five 15:6,12 21:7 25:7 52:18 74:1 104:6 fixed 108:15 flap 92:12 floor 2:7 48:22 49:3,8,9 51:18 56:2 60:11 64:12,14,23 65:1,2,4,7 90:21 Flores 1:10 2:13 45:17 46:18 48:5,25 52:11 56:10 57:19	58:4 60:10 62:15 63:18,25 64:3,15 65:9 76:23 93:4 96:14 97:18 98:12,20,25 99:5 103:24 104:6,12,23 105:8 110:11 flowing 73:4 force 20:17 30:4,6,9,10,11,13,1 6,18 31:3,6,7 32:15 50:19 82:20,24 83:20 84:14 91:23 foregoing 115:15 116:3,6 foreseeable 29:15 form 17:18 19:2,24 20:2 26:18 27:8 28:1,9,17 29:12 30:21 31:9 32:7 34:2,21 35:13,20 40:3 42:1,9 50:21 69:7,14,21 70:6,18,24 71:14 77:10,21 78:15 80:15,21 82:15,21,22 83:8,14,15,22 84:17 85:16 87:15 95:3 96:17 104:9 109:19 113:9,22,23 formal 75:20 fort@scotthulse.com 2:12 forth 74:17 foundation 30:22 31:9 69:8 fountain 26:8 80:9 Francisco 2:10 6:7,22 7:18 8:6 10:17 frequently 34:18 friendly 8:16 front 22:21 44:22,23	53:10 81:23 104:12 full 110:20 <hr/> G <hr/> G4S 1:9 2:9 11:13,14,15,18 12:2,3,12,13,15 19:20 20:1,8,17,25 21:12,23 23:9,10 24:5,13,19 26:23,25 27:5,15,21 28:5,6,14 40:10 58:1 69:11,19 70:5,14 71:17 72:6,9 73:11,19,22 74:1 75:16 77:5,16 78:3,14 79:4,17,25 80:5,12,17 81:5 85:3 87:20 93:9,13,18 Gage 2:3 3:4,6 4:11 6:5 7:12,18 17:11,20 19:3,25 20:4 23:23 24:5 26:21 27:10,20 28:5,13,24 29:14 30:25 31:15 32:9,25 34:6,23 35:15,24 36:10,12 38:22 40:10 41:7 42:4,11 46:15,16 48:13,21 49:14 50:25 51:14 54:6,8,17 55:15,18,25 57:24 59:1 61:16,17 63:9,23 67:21 68:21 69:9,11,15 70:3,10,20 71:3,16 74:7,8 77:15 78:1,17 79:15 80:17 81:4,22,24 82:16 83:1,10,19 84:1,19 87:16 91:1 92:5 94:13,20 95:9,14 96:20 97:1,10 102:5,11,15 104:11 107:2,4,25 108:6,23,25
---	---	--

109:3,5,17,24 110:1 111:14,24,25 112:22 113:12 114:2 gain 31:6 83:5 84:13 garage 99:25 101:7 gathered 98:8 GCI 16:8 gee 46:21 51:17 65:18 71:10 90:25 general 7:7 42:16 generally 42:14 gentleman 21:22 37:15 46:23 56:17 66:20 99:9 gentlemen 108:2 gets 70:17 getting 23:18 32:20 34:3,10 41:16 45:3 52:10 60:13 64:22 giggled 69:1 giggling 68:11,12 given 26:21 28:25 53:7 80:12 116:7 giving 74:14 glass 76:10 glasses 68:4,22 glassy 86:22 Goldberg 2:3 gone 113:20 goodness 35:25 66:4 102:18 grab 31:2,4 60:18 grated 89:11 Great 90:15 ground 48:22 49:6,15 104:20 105:13,17 group 83:12 guard 21:2 23:5	77:17 guards 72:12 113:13,20 guess 10:12 15:5 53:4,5,6,14,22 87:9 91:19 96:22 guessing 79:21 gun 33:20 92:9 gurneys 58:17 guy 59:13,14,15 86:24 87:3,4 guys 56:25 63:1 guy's 18:19 <hr/> <div style="text-align: center;">H</div> <hr/> half 10:22 12:5,19,20 hallway 54:21 hand 30:25 handcuffed 88:22 handcuffs 39:14 61:12 88:6,12,17 handful 57:2 handle 70:4,11 handling 70:8 76:23 87:20 handout 22:8 handprint 76:14 hands 30:19 31:17 handwritten 75:25 happen 17:22 22:11 61:17 73:20 91:1 happened 25:16 56:22 66:17 97:22 hard 40:4 76:13 103:15,16,17 hardcore 35:22 harm 83:6 haven't 54:6	having 31:25 35:18 36:20 38:25 39:2 69:13 82:2,10 83:4 84:2 101:21 103:11 105:8 head 41:2 43:4,9,12,13,19 44:4,10,13 45:10,13 46:6,8 47:10,12,14,19 48:7,13 51:3,8 56:1 64:21 65:1 66:14 103:12,14,17 105:13 headquarters 21:13 health 5:23 91:11 healthy 6:2 hear 6:6 43:23 57:5,6 67:13 69:2 95:19 96:5 104:25 heard 64:7 66:18 72:11 76:4 95:25 Hearing 62:10 hearsay 17:10 28:10 heart 56:21,23 heavens 66:6 heavy 46:1,2 heavyset 37:20 he'll 67:1 help 6:18 27:6,14,19,25 56:8,12,25 57:1,4,8,12,17,18,1 9,22 58:4,5 69:5,6 71:22,25 77:19 82:6,18 83:4,20 84:3,13 85:16 87:13 97:15 111:9 113:21 helping 60:2 68:8,24 93:1 Henry 10:6,7,9,14 hereby 115:16 116:4 herein 115:17
---	---	---

<p>here's 71:12</p> <p>hereto 116:12</p> <p>he's 6:24 10:12 18:19 65:16 66:20 67:1 92:16</p> <p>Hey 113:20</p> <p>highlights 7:4,6,22,24</p> <p>highway 15:17 36:3</p> <p>hills 2:4 38:1,2,5 40:20 44:2,15,18 53:20 63:4,10,19 64:9 72:18,25 73:8,13 85:4 89:3,8,15 94:7,10 102:25 109:7,15 110:4</p> <p>hire 73:18</p> <p>hired 25:12</p> <p>hires 25:7</p> <p>hiring 11:21</p> <p>hit 31:2 35:11 43:9</p> <p>hitting 43:12,13</p> <p>hold 84:5 104:22</p> <p>holding 52:16,23</p> <p>home 22:11 23:21 53:13</p> <p>honest 74:13</p> <p>honestly 27:17</p> <p>hospital 19:12</p> <p>hotel 21:14</p> <p>hour 10:22 95:11</p> <p>hours 21:6,7 66:5</p> <p>Huh 11:7</p> <p>Hulse 2:11</p> <p>human 18:15 36:8 41:25</p> <p>hundred 12:23</p> <p>hurry 56:10</p>	<p>hurt 67:1</p> <p>hurting 61:14</p> <hr/> <p style="text-align: center;">I</p> <hr/> <p>I'd 22:10</p> <p>I'll 8:23 20:15 22:14,24 75:23 83:24 88:9,25 90:15 96:21 100:10 107:4</p> <p>I'm 6:2 8:21 12:7,19 14:9 20:17 22:9 27:20 28:2 31:22 47:16,18 49:7 53:8 54:3 61:20 67:5 69:9 74:5 78:22 79:7 83:23 90:11 92:9 95:22 99:15 103:25 108:24 109:25 112:18</p> <p>imagine 81:23</p> <p>Immigration 11:23</p> <p>important 5:11 47:20,24</p> <p>impression 76:11</p> <p>Inc 1:10 2:9</p> <p>incident 7:8 8:4 73:22 75:21 97:21</p> <p>including 68:25</p> <p>incoherent 92:17</p> <p>Incorporated 11:14</p> <p>independent 12:3 28:21 30:7,8 42:13,15 64:18 70:2 87:17,19 96:8 97:23</p> <p>indicate 22:21 95:19</p> <p>indicating 36:25 48:5</p> <p>individual 82:19</p> <p>Individually 1:5</p> <p>individuals 32:20 76:21 87:21</p>	<p>influence 8:13 16:2,7,11 17:9,16,24 18:17 36:5 37:1 85:17,22,25 86:5,12</p> <p>influenced 34:18</p> <p>information 3:16 9:23 10:15 22:18 28:25 29:1,3 74:17 75:24 76:2 86:9</p> <p>ingested 105:24</p> <p>injure 40:21,25 41:1</p> <p>injured 41:9,16,19,23 44:1 47:8</p> <p>injuries 44:13 45:10 83:20 105:18</p> <p>injuring 40:8,12</p> <p>injury 44:17 46:4,6 47:13 66:14 85:1 105:13,16</p> <p>ink 76:9</p> <p>inside 39:7 45:20 54:20 92:8 105:9 108:17 109:6,15 110:4,24</p> <p>installed 108:16</p> <p>instruction 54:4 80:12</p> <p>instructions 26:21 27:23 80:18</p> <p>instructs 6:8</p> <p>insurance 24:6,10</p> <p>interested 116:12</p> <p>Interstate 21:14</p> <p>interview 75:16,20</p> <p>interviewed 74:8,11 75:19</p> <p>intoxicated 8:13,18</p> <p>intoxilyzer 16:21</p>
--	---	--

invented 81:17 investigations 15:22 involve 4:16 23:2 involved 4:17 7:3 34:13 93:3 Isn't 10:12 issues 5:23 77:23 item 89:21 90:18 Items 22:18 it's 5:11 6:11 9:16 13:17,18 25:12 48:1 55:12 56:20 57:16 73:4 76:10 77:22 78:9,23 79:8,10,20 84:25 88:7,8 90:12 98:6 101:5 108:16 109:20 I've 31:13 55:16 91:20 <hr/> J <hr/> jail 36:4 40:20 44:19,21,22 45:8,9 46:17 48:22,25 49:18,23 50:3,6,9,13,14,17,1 8 51:1 55:25 57:11 58:10,14,17,22 60:13 62:12 63:20 64:1,4,12 65:21 66:20 67:14 68:7 72:13,25 73:9 76:16 77:17 78:4 80:1 93:8 94:1 95:20 96:6,11,15 97:13,15,19 98:2 99:11,18 100:7,17,18 101:20,23 102:2,6,24 103:9,21 104:1,8 105:10 108:17 112:7,10,15,23 113:4,12 jailers 50:8 105:5	jails 59:1,6 James 1:14 3:3,12 4:4,7 115:15,19 January 13:3 14:24 jdarnell@jdarnell.co m 2:16 jedarnell@jedarnell.c om 2:17 Jeep 2:15 74:4,5 77:8 81:21 82:15,22 83:8,14 84:18 92:2 94:21,24 95:7 96:17 97:6 102:4,8 104:9 107:24 112:18 113:11,22,25 114:7 Jim 2:14 17:10 30:23 31:11 32:22 41:6 42:2 46:10,13 48:11,19 50:22 54:14 55:14,16,19 57:23 58:24 63:8,21 67:20 74:5 job 13:13 15:17,20 17:7,21 19:7,8,10 25:11,24 35:18 37:11 41:17 85:19 86:2 jobs 25:8 Johnson 94:6 97:25 98:11,19 104:7,11,22 join 11:13,18,20 joined 20:8,17 joked 68:24 joking 67:14 68:7 Jose 1:10 2:13 July 13:4 jury 81:23 justified 91:23 justify 50:19 <hr/> K <hr/>	Kevin 94:6 kick 31:2,18 kill 35:19 killed 32:21 33:4 45:4 74:9 kinds 36:21 58:17 knew 11:23 19:14 25:9,11,12,17 42:14,16 44:11 56:8,24 57:8 58:4 61:7 91:13 knowledge 17:12 60:1 73:11,20 74:15 96:24 97:4 105:19 107:9,13,23 <hr/> L <hr/> laced 106:25 laceration 45:13,23 46:7 lack 5:23 69:7 lacks 30:21 laid 25:7 language 86:23 87:6,9 last 34:5 102:9 late 56:20,21 66:21 later 95:3 113:3 latest 25:6 laughed 67:3 law 4:23 6:14 29:8 34:13 36:22 42:4,6,16 68:11,15 70:20,23 77:19 81:8 87:12 112:14,22 113:5 lawsuit 9:16,17 24:7 lawyers 6:6 10:23 lay 90:20 laying 49:7 51:15,20
---	--	---

52:1,2	listen 5:11 30:19	manner 84:4
layout 9:14	little 13:20,22	manual 69:23
leads 104:8	16:15 21:15 33:14	March 3:12 12:7
learn 17:8 55:25	34:19 37:20	17:3,15 33:11,24
56:4 62:9 63:18	52:15,16,23 54:21	37:10 59:9,23 62:6
64:25 68:11	55:9 106:18	72:11,25 73:7 76:22
learned 65:25 91:20	live 12:23	85:6,11,12,16
least 32:10 55:7	Livescan 76:4,15,22	86:1,13 87:25 88:15
63:3 75:20 79:17	77:18	89:9 91:8,22 107:16
leave 12:11 14:2,25	load 109:14 110:4	108:17 110:11
23:15 29:6 76:22	loaded 38:4,7	marijuana 36:2
77:6 94:22 98:11,19	location 39:22 49:4	mark 22:24 107:5
leaves 76:10	55:5	marked 22:18 23:14
legal 50:20 91:25	lock 31:5	88:9 93:24 99:15
Legate 2:6	logic 84:23	107:3 110:8
length 53:12	long 21:6 46:22	marks 44:9
less 83:6 85:1 95:11	53:11 66:8 72:24	material 22:8
Let's 23:23 55:14	73:2 91:20 101:21	materials 21:24 22:5
94:13	longer 73:5	math 12:21
letters 36:18	losing 51:9	Matthews 1:14 3:3,12
level 16:19 17:1,5	lost 25:7 53:20	4:4,7 8:20,22 18:13
license 23:6	lot 57:21 83:21,23	59:20 79:13 96:23
lieutenants 13:11	91:5 106:17	108:5 115:15,19
life 31:16 37:1 91:6	lots 35:9	may 12:16 22:24
113:19	lowest 13:8,10	89:18 91:21 94:21
lifted 61:8	lunch 6:18 9:13	maybe 4:15 14:14
lifting 60:6 61:10	10:2,15,25	21:8,9 37:20,21
lighting 47:5	11:2,3,6,8,11	52:19 66:6,7,21
likelihood 85:1		92:16
likely 78:9 80:23		McDonald's 11:5
89:17 90:13 98:6		meals 56:15
limit 15:19 16:16		mean 39:2 46:21 49:5
line 3:17,18 16:14		57:20 67:8 91:18
22:19 55:8 115:2		92:14 93:16
lines		meaning 96:5
106:11,15,17,20		means 15:10,11 39:14
lips 56:19,20		91:21 106:15,20
listed 23:16		medical
		19:1,6,9,14,17,21
		20:18 42:8 43:1
		65:9 66:10 96:11

medication 5:23	moving 24:25 52:1 60:16 64:20	objection 6:7 17:18 19:2,24 20:2 26:18
meeting 114:4	muscles 91:4	27:8 28:1,9,17
Melvin 69:1	myself 92:16,20	29:12 30:21,23
memo 71:1,9	<hr/> N <hr/>	31:9,11 32:7,24
memory 43:6,7	narrative 54:4,12	34:2,21 35:13,20
Mendez 2:6	narrow 20:12	38:20 40:3 41:4,6
mental 86:21 87:11,21	necessary 30:4,6,9,10,11 41:9,11 76:24 113:17	42:1,2,9 46:10,11
mentioned 24:18 62:19 68:23	neither 116:8	48:9,11,17,19 49:11
Mesa 2:15	nice 59:14,15 114:4	50:20 51:12 54:14
metal 76:12 88:5,12,22 89:11,12	NM 1:25	63:6,8 67:18,20
Mexico 23:9	nobody 15:20 86:9	68:17 69:7,10,14,21
middle 39:10 55:12 110:22	Noe 2:18	70:6,18,24 71:14
miles 72:23	nonresponsive 36:11 61:16	77:8,10,21 78:15
mind 20:7 21:20 60:17 62:3 83:20	nor 86:9 116:9	80:15,21 81:21
minute 92:16	northbound 103:22	82:15,21,22
minutes 55:15 66:7 73:4,5,8	NOTARY 115:24	83:8,14,15,22
Mission 38:5,7,13 73:12 76:19	noted 115:17	84:16,17 87:15
moment 46:15 89:18	nothing 10:16 63:17 87:6 111:24	90:23 91:25 96:17
Monday 1:16 4:2	notice 49:9 51:3	97:6,8 102:4,9
month 12:24 14:22	noticed 34:12	104:9 109:17,24
months 8:3 18:3 37:3 61:4,18 106:6	nowadays 76:10	112:21 113:9,22,23
mopped 65:1	nurse 65:8,13,17 66:9,10,13 95:17,19,23,25 96:2,5	objections 6:6,11 27:16 84:18 92:2 113:11,25
mopping 56:1	nurses 95:23	obligation 4:22 42:7,17,25
morning 4:12 5:24 11:4 62:6 95:2	<hr/> O <hr/>	obscene 86:23 87:6
motor 4:17	oath 4:22	obscure 55:1
motorist 15:22	object 17:10 32:22 54:3,12 57:23 58:24 63:21 88:22 89:25 95:3 109:18 112:18	observation 17:25 53:23
move 36:10 61:16 91:4 103:7		obtain 72:8 106:12
moved 60:18,19 111:5		obviously 9:16 86:20 87:6
		occurred 111:11,16,17
		occurrence 7:25
		October 1:16 4:2
		odor 16:14
		odors 17:24
		offhand 22:6
		office 25:5 62:11
		officer 1:10 2:13

<p>12:5 15:7 19:13 25:9 27:2,4,6,14,19,24,2 5 28:7,16 29:5,11 34:24 38:12,15 39:1 42:17 45:17 48:2 56:7 62:6,20 63:15 64:8 71:17 85:3 87:12 93:4 94:9 103:24 104:23 112:13 116:3</p> <p>officers 19:18 25:4 34:14 36:19 38:9 46:17 48:5 49:18 62:10,19 63:14 64:6 68:25 77:6,20 82:18 83:4,21,23 84:2,13 85:2 93:6,24 112:15,23</p> <p>Oh 11:3 15:15 56:24 66:6 88:20 96:25 111:25</p> <p>okay 6:3,10 7:21 8:1,8,21 10:14 11:15 12:19 22:23 25:16 27:19 28:4 31:14 34:11,23 38:24 42:22 49:9 54:18,20 55:7,13,18 59:18 61:15 75:22 78:6,16 80:6 83:2 84:12,22 89:18 90:15 92:20 93:14 97:5 98:18 101:2 103:12 105:5,16,22 110:21 111:23</p> <p>old 12:19 76:9</p> <p>omendez@scherrlegate .com 2:8</p> <p>one-legged 16:13</p> <p>one's 86:18 87:7</p> <p>one-ton 39:18</p> <p>onto 49:3</p> <p>open 49:17,20,23 51:24 86:22 104:23</p>	<p>operation 56:16</p> <p>opinion 85:16 91:23</p> <p>opportunity 101:19 113:17</p> <p>opposed 72:5 106:21</p> <p>orally 28:25 29:3 75:25</p> <p>Oregon 1:17 2:7</p> <p>Ortega 2:10 3:5 9:12 17:18 19:2,24 20:2 26:18 27:8,16 28:1,9,17 29:12 30:21 31:9 32:7,24 34:2,21 35:13,20 38:20 40:3 41:4 42:1,9 46:11 48:9,17 49:11 50:20 51:12 54:3,12 63:6 67:18 68:17 69:7,14,21 70:6,18,24 71:14 77:10,21 78:15 80:15,21 82:21 83:15,22 84:16 87:15 90:23 91:25 95:6 96:23 97:8 102:12 108:4,24 109:1,4,22 110:2 111:12 112:21 113:9,23 114:6</p> <p>Oscar 2:6</p> <p>others 81:10 93:3</p> <p>ounces 61:10</p> <p>outside 92:8 98:1 99:6</p> <p>Overland 100:21,23,24</p> <hr/> <p style="text-align: center;">P</p> <hr/> <p>P.C 2:11</p> <p>p.m 1:17 4:3 7:14,17 24:1,4 55:21,24 94:16 95:13 114:10</p>	<p>paces 47:2</p> <p>page 3:2,8,11,17,18 22:19,21 107:6 110:14,17 115:2</p> <p>palm 26:13 76:12</p> <p>Paoli 10:9,10</p> <p>P-A-O-L-I 10:8</p> <p>paragraph 110:15,19,20,22</p> <p>park 101:19 102:6,14 103:21</p> <p>parked 100:6,7,11,14 101:8 102:17,19 103:24</p> <p>parking 50:13</p> <p>Parks 66:23</p> <p>particular 9:11 14:5 20:13,21,24 26:3 28:3,12,20,22 29:21 40:23 70:25 77:22 81:2 102:16</p> <p>parties 116:9,12</p> <p>partly 82:23 83:17</p> <p>partner 70:16</p> <p>partners 63:1</p> <p>Paso 1:3,18 2:7,12,16 12:2,3 13:25 14:19 15:3,7 19:18 21:11 24:19 25:19,24 29:23,24 30:5 36:7 38:8,12,16,25 39:1,3 56:7 72:16,19 73:9,13,23,25 81:13,15,16 93:21,23 100:20</p> <p>Pass 111:12</p> <p>passed 56:6 61:25 65:24</p> <p>passenger 39:17,25</p>
---	--	---

pass-through 99:20	perjury 6:14 107:18 111:17	105:12 107:18 108:1 114:3
past 60:6		
Patience 78:23	person 16:19 18:11 30:16 32:11 33:12 34:14,17,18 48:15 71:7,11 81:9,12 83:6,12 84:25 85:1	points 97:25
patient 18:23 19:21		police 12:4 14:16 19:10 24:20 25:19,22 27:2,4,6,13,23 28:7,16 29:23,24 36:7,19 38:8,12,15,25 57:10,19,25 71:4,25 72:4,5,16 74:12 75:13,17,21,24 82:10 93:20,23 108:6,19
patrol 11:22,23 24:24 25:14,15 36:3 57:20	personal 17:25 96:24 97:4,5 98:8	
patrolman 15:18	personality 32:5	
Patrol's 25:1	personally 35:16 50:12 116:5	
pay 13:20,21,22	pertinent 74:17	
PCP 36:13,17,20	phone 108:23 111:25 112:5,7	policeman 39:3
PD 12:2 14:19 15:3,7 19:18 25:24 30:5 36:1 38:16 56:7 71:5 73:14,23,25 81:13,15,16 93:21 112:12	phones 81:18,20	policemen 11:24 26:24
	photograph 88:25	policy 71:1
peace 19:13	photographs 88:9 90:22	polite 18:12 59:16
Pebble 37:25 38:2,4 40:20 44:2,18 63:4,10,19 64:9 72:18,25 73:8,13 85:4 89:3,8,15 94:7,10 102:25 109:7,15 110:4	physical 33:25 34:8 60:3 86:21 87:11,21	port 45:2,8 49:1 56:12
	physically 68:2 103:2,7 105:9 111:5	possession 36:2
penalty 6:13 107:18 111:16	picked 44:2,18	possible 63:14 77:12,22 79:8,10,15 83:9 90:20,25 91:5
people 8:11 16:1,20,25 21:19 24:25 25:21 32:3 34:25 35:3,8,9 36:20 39:20 43:10 45:18,19 67:13 73:18,19 76:17,18,20 83:7,11 84:24 87:10,14 93:1 99:20	picture 100:8,9	possibly 31:1 50:1 66:7
	pictures 90:1	post 76:22 77:6
percent 8:23 12:8 51:19 61:20,23	piece 76:10	potential 35:1
perfect 43:7	pinching 61:13	potentially 32:4 35:16
perhaps 48:6	Plaintiff 1:7,15 2:2	precautions 43:18
perjure 111:18	plan 70:16,22 71:12	prepare 6:19 10:19
	play 5:4	presence 30:18 32:5
	please 4:5 27:11 75:22 90:16	present 2:18 10:4 33:4 38:17 62:25 65:8,11 83:4
	PLLC 2:6	preserve 6:11 22:14 23:14
	pocket 92:6,13,23	preserved 95:4
	point 19:1 35:15 38:18 44:6 45:24 47:5 49:4,17 51:4,10 52:3 58:3,4 60:21 82:3 104:25	

<p>pretty 10:25 13:12 47:19</p> <p>previously 61:18 88:10 110:7</p> <p>prints 26:14</p> <p>Prior 101:23</p> <p>prison 77:17 113:13</p> <p>prisoner 18:23 19:21 20:18 26:22 27:1,5,7,13,24 28:7,16 29:4,16,18 30:1 37:24 38:11 39:13 40:6,12 42:6,25 45:16,17 46:20 56:5 58:19,22 59:2 72:16 80:4,13,18,24 82:12,17 93:13,18,25 94:5,10 96:6 98:19 99:2 104:3,7 106:5 113:6</p> <p>prisoners 20:1 25:20,23 26:15 29:10,13 37:12,13 38:7,24 39:4 41:19 59:7 70:8 72:12 77:3 91:15 113:14</p> <p>probable 15:23</p> <p>probably 8:3 14:15,23 22:3,15 23:2,10,12 26:5 35:4 47:13 51:17,18 52:18 60:16 61:6 62:21,25 65:5,14 75:7 80:22 81:22 97:11 98:5 108:11 111:20 112:17</p> <p>problem 95:6,7</p> <p>problems 8:23 59:21 87:10,22</p> <p>Procedure 1:16</p> <p>proceed 95:1</p> <p>processing 64:16</p>	<p>produce 22:15</p> <p>profusely 95:21</p> <p>program 73:17 76:11</p> <p>protect 42:17 43:19 77:19 103:18</p> <p>provide 9:23 10:14 24:6 66:10</p> <p>provided 20:25 23:21 96:12 110:10</p> <p>providing 27:22</p> <p>psychologically 18:24</p> <p>PUBLIC 115:24</p> <p>pull 16:1,6 33:20</p> <p>pulling 16:20 60:10,12</p> <p>punch 31:4,12,13,18,25 33:16</p> <p>punched 31:13 63:15</p> <p>punching 62:6,20 64:8</p> <p>puppy 5:24</p> <p>pure 106:25</p> <p>purity 106:24</p> <p>pursuant 1:15</p> <p>push 92:24</p> <p>pushed 48:6,12</p> <p>pushing 48:15 56:16</p> <p>putting 79:9</p> <hr/> <p style="text-align: center;">Q</p> <hr/> <p>quantity 36:2 106:3</p> <p>question 5:4,13 6:9 26:2 27:11 28:19 33:9 40:5 42:10 54:4,7,8 57:15 78:8 83:24 84:6,9 95:3 98:17 102:12 108:7,10</p>	<p>109:11,19,21</p> <p>questioned 92:19,20</p> <p>questions 5:12 20:15 107:25 109:2 114:2,6</p> <p>quick 20:7 67:24 102:8</p> <p>quit 12:25</p> <p>quite 28:24</p> <hr/> <p style="text-align: center;">R</p> <hr/> <p>radio 57:10,19,25 58:1 69:6,13 71:25 72:4 81:9,25 82:2,11 93:20 108:14,16,21 112:11</p> <p>radioed 108:6</p> <p>ramp 45:1 46:23 99:8,11,14,18 101:1,16,20 102:22 104:8,16</p> <p>ran 26:20</p> <p>range 53:24</p> <p>rank 13:5,8,10 15:3</p> <p>rapport 18:6</p> <p>rather 44:15 74:1 101:21</p> <p>reach 13:5</p> <p>reads 5:4</p> <p>real 20:7 64:18 67:24 102:8 103:10,25 113:18</p> <p>really 18:14,22 20:6,14 57:17</p> <p>reask 69:10 98:17</p> <p>reason 5:11,19,21 14:5 22:25 59:4 60:9 82:2 115:2</p> <p>reasons 5:22 62:24 82:10,14 83:3,10</p> <p>recall 22:4 29:2,25</p>
--	--	--

<p>37:17,19 38:14 43:13 49:13 50:1,7,24 61:4,17 63:13,17 64:2,5,6 69:18 76:1 77:24 78:2,6,8,11,12,19 79:2 81:1,6,7 90:17,19 93:1 94:7 97:24 102:12 103:2,6,9 108:7,9 109:7,10 111:19,21,23</p> <p>recalled 47:23</p> <p>receive 19:25 21:24 23:5 29:16,19 70:3 77:15 79:7 81:4</p> <p>received 21:1 28:14 29:1,20 40:18 45:13 69:18 70:8 77:24 78:8,10,13,20 79:3,8,11,12,17 80:23 87:18</p> <p>receiving 29:2,25 40:15 78:2 79:24</p> <p>recess 7:15 24:2 55:22 94:17</p> <p>recognition 16:4</p> <p>recognized 19:13,16 68:23</p> <p>recollect 97:20</p> <p>recollection 28:11,22 30:8,9 42:13,15 63:9 64:19 70:19 75:14 85:8 87:17,19 89:3,4,7 96:8 97:23 103:11 109:22 111:9</p> <p>record 6:4 7:12,13,17 23:21,23,25 24:4 55:20,24 74:4 78:25 94:13,15,18,21 95:10,13 116:7</p> <p>recorded 74:20 116:5</p>	<p>reference 22:20</p> <p>referring 87:3</p> <p>refresh 111:9</p> <p>refuse 102:23</p> <p>refused 66:13 103:1 110:24 111:5</p> <p>regarding 20:1 63:14,25 79:25 80:4</p> <p>Regardless 42:15</p> <p>regards 98:20</p> <p>regional 37:25 38:2 40:20 44:3,14,18 63:4,10,19 64:9 72:19 73:12,13 85:4 89:15 90:1,6,9 102:25 103:4 109:7,15 110:5</p> <p>rejected 96:15</p> <p>related 116:9</p> <p>relation 46:17 100:14</p> <p>relative 116:11</p> <p>relevance 81:21</p> <p>remember 12:8 13:16 14:22 15:19 18:3,22 21:5,16,23 22:6,7 26:3,5 28:3 29:20 30:3 36:17 37:5,18,22 38:4 40:14,15,17,23 43:10 47:18 49:25 50:10 52:21 61:25 62:22 65:3,6,13,14,18,19, 20,23 66:3,22,24 68:5,6,7 69:17,23 70:2,9 71:2,15 78:10 79:12,17,20,24 80:25 81:2 88:1,20,24 89:10,12 90:11 92:8,11 93:4 95:23 98:22,23 100:24 102:16</p>	<p>103:14 104:4,24 105:2,3,4,5 113:1,2</p> <p>remembered 7:24 8:2</p> <p>remembrance 28:11</p> <p>removed 104:1,4</p> <p>removing 103:3</p> <p>rented 21:17</p> <p>repeat 27:11 83:25</p> <p>rephrase 48:23 110:2</p> <p>report 3:12 85:4</p> <p>Reported 1:24</p> <p>reporter 3:9 4:5,8 5:2 23:22 78:18,22 79:1</p> <p>reports 36:25</p> <p>reposition 41:13</p> <p>representation 89:2,15 90:9 99:18</p> <p>representing 6:23,24</p> <p>request 1:15</p> <p>Requested 3:16 22:18</p> <p>reserve 114:7</p> <p>resist 26:16,19,23 29:10,16 109:14 111:19</p> <p>resistant 34:19</p> <p>resisted 109:5 111:6</p> <p>resisting 27:1,5,7,13,24 28:8,16 29:4,17 30:1 31:16 50:3 80:19 83:5 84:3 103:4,8 110:3</p> <p>resort 31:25</p> <p>resource 12:4</p> <p>respect 17:23 25:23 40:2 43:12 53:17 98:14</p> <p>respond 18:4</p>
---	--	---

response 109:10 restrain 82:19 restraining 27:7 restroom 9:1 26:7,9,17 55:17 80:8,9 result 23:6 retired 11:24 review 5:5 10:19 74:25 right-hand 39:16 right-handed 92:9 rights 9:21 95:2 ring 88:5 roll 71:3,6 76:8,9,12 Romero 1:10 2:9 24:12 45:17 46:18 48:5,25 52:11 56:10 58:4 60:10 62:18,24 63:10 64:15 65:9 70:10 76:23 93:5 96:14 97:18,21 98:12,20,25 99:5 104:6,11 105:8 room 21:17,18 52:15,23 67:4 Rosales 95:17 ROSWITHA 1:5 RPR 1:25 Rules 1:16 running 25:5 rural 15:18 <hr/> S <hr/> Saenz 1:5,6 7:5 8:2 9:22 17:3 32:9,18 36:25 37:10 40:19 57:2 58:8 59:9 73:8 76:23 91:7,11 92:3 98:15,21 99:1	108:18 109:5,14 110:3 safe 84:4 safely 82:19 safety 82:3 91:6,12 sally 45:2,8 49:1 56:12 saw 19:20 44:9 45:9,23 47:1,14,15 50:3,9,12 51:15 57:12,15 66:11,12,18 98:25 112:23 113:4 scanning 26:12 scary 86:25 87:2 Scherr 2:6 school 12:4,11 13:1 14:1,16,17 Scott 2:11 screaming 50:5 104:25 105:4 SEAL 115:22 seat 39:11,15,24 110:24 seating 103:3,7 111:6 second 23:24 32:18 64:12,14,22 65:2 secure 1:9 2:9 11:14 39:13 40:1 secured 39:21,23 securely 39:21 security 11:17 12:24 19:20 21:1 27:15 69:19 70:5,14 71:17 72:6,9,12 77:16 78:3,14 79:4 87:20 seeing 47:16 52:21 62:1 65:6 seek 19:7,9 seem 18:24 43:24	103:15 seemed 106:10 seems 43:8 seen 18:17 29:9,13 53:14 86:15 senior 13:7,15,19 sense 19:4 42:18,24 sensed 57:16 58:5 September 11:19 12:9 sergeants 13:11 25:5,7 serious 43:25 66:14 83:20 service 13:17,18,19 services 96:11 setting 70:23 setup 88:16 sheer 53:14,22 she'll 23:22 sheriff's 53:21 112:20 shirt 92:6,13,23 shoot 33:21 35:11,19 106:1 shooting 97:22 short 46:13 shortly 48:6 shot 32:21 33:4 45:4 65:25 74:9 shoulders 52:12 61:9,12 showed 86:12 showing 90:5 99:15 sic 89:8 sides 39:10 sidewalk 98:8 101:16 sight 55:8
--	--	--

sign 75:6 signature 3:8 107:7,10 115:1,16 signed 75:8 76:1 107:13,16 significant 13:21 similar 28:24 90:14 simple 16:15 simply 5:14 single 60:20,25 61:4,19 99:23 sink 5:24 56:23 sir 4:14,20,25 5:10,16,18,21 6:16,20 9:11,25 10:3,16,21,24 11:12,16 12:10,14 15:8 16:5 17:2,7,19,21 19:19 20:10,20 21:3 22:1 23:19 24:9,14,17,22 25:15 27:3 29:6 30:8,24 32:1 33:1,17,19,22 34:9,16,22 35:2,6,14 36:23 37:2,5,8,23 38:10,19 43:2,21 44:5,8,23 45:6 46:5 47:4,6 48:12,20 49:2,13,16,19,22 50:24 51:5,11,23 56:3 57:6,9 58:2,16,23 59:5,8,11,25 60:4,8,12,24 61:2 62:14 63:5,12,24 64:10,13,24 65:3,20 66:12,16 67:10,15 68:10,14 69:3,25 71:15 72:7,10,14 73:10,24 74:3,10,15,19,24 75:2,5,7,11,18 76:25 77:22 80:2 81:1 82:1,9,13	83:17 84:17 85:5,19,23 86:2,14 87:23 88:4,14 89:4,17,24 90:3,19 91:9,13 92:4 93:10,22 94:8,12 95:16,18 96:4,8,13 97:4,17,20 98:13,24 99:3,19 100:1,5,9,12 102:3 103:5,20,23 104:10,14,18 105:7,11,15,23 106:14 107:10,15,17 108:8 109:9,12 110:13,14,18 111:10,18,20 112:9,13 113:8,16 114:1 sit 78:2,12,19 79:2,16 Site 2:15 sitting 21:18 43:16 47:16 51:14 62:1,22 80:7 situation 29:4 31:24 69:5,12 70:17 77:7 situations 32:4 72:11 sleep 5:23 slender 66:22 slinging 47:14,19 slow 42:23 98:6 slung 47:10,12 smaller 39:15,18 99:22,24 100:3 101:7 smell 18:1 snort 106:1 sobriety 16:11,12 17:14 85:15,21 Social 12:24 soda 106:25	solid 89:12 Solutions 1:9 2:9 11:14 somebody 36:1 41:22,23 82:24 84:24 86:20 somebody's 68:1 somehow 35:9 someone 16:6 19:6 57:7 86:15 someone's 113:19 something-10 71:8 somewhat 84:20 somewhere 14:14 38:3 45:12 sorry 18:7 54:23 78:22 91:19 108:24 109:25 sort 30:15 31:17,19 35:12 52:1 sounds 18:8 28:18 30:15 32:2 34:23 south 100:18 space 23:15 speak 6:17 63:25 speaking 65:9 specific 25:24 70:7 78:11,13,20 79:3 80:3 specifically 29:22 61:18 speculate 91:20 111:22 speculation 28:10 31:10 38:21 41:5 46:10 48:18 50:23 51:13 54:5,13 57:23 63:7 67:19 68:18 77:9 83:16 84:17 90:24 92:1 97:7 112:19 113:10,24
--	---	---

speed 15:19 spend 10:22 spent 5:25 spoke 6:22 11:3 32:14 68:3 85:11 spoken 11:9 stand 16:13 58:11 standard 20:5 standing 51:14,18 58:13 62:23 92:7 standstill 73:5 start 25:18 42:20 started 12:18,24 13:25 39:25 70:23 startle 92:14 state 13:3,5,9,23 15:1,2,13 stated 33:2 statement 4:21 27:25 33:6 38:17 42:3 44:12,16 47:21,25 66:25 74:18,22 75:9 76:1 78:1,5,7 85:13 107:7,8,11,12 110:10,15 statements 67:17 68:21 75:12 states 1:1 110:22 station 16:23,24,25 53:21 73:18 stationed 113:13 stay 66:25 67:2 97:25 98:3 stayed 14:23 52:22 56:5 98:5 steel 39:9,10 89:12 stenographic 6:4 78:25 94:18 step 13:19 stern 30:18	steroids 68:8,24 sticks 21:20 60:17 stolen 15:24 stop 12:15,17 15:22 40:7,8 41:12 43:18 57:20 103:18 stopping 44:21 straight 16:14 street 57:20 100:15,21,22,23,24, 25 101:16 strike 33:18 35:11 36:10 61:16 struggle 39:25 struggling 31:1 80:14,16 stuck 5:24 subject 40:16 85:1 SUBSCRIBED 115:20 substance 76:13 substantial 46:3 substation 38:5 substations 73:19 74:1 substitute 13:25 14:10 substituting 14:15 successful 73:17 sudden 32:19 Suite 1:17 2:11 summon 71:17 summons 57:18 71:19 sunk 56:21 supervisor 15:9 Supplemental 3:12 supposed 26:15 27:14 69:4,19 81:1 87:13 sure 20:14 21:1 23:1	27:12 31:22,23 41:18 47:19 48:24 51:19 61:20,23 74:16 75:3 78:17 80:6 82:4 83:24 84:1 103:25 107:21 surprise 92:15 suspect 31:1,16 70:4,15,17 71:11 83:5,21 84:3,4,14 96:19,21 97:2 suspects 35:17 70:12 suspicion 96:22 97:5 sustain 69:9 swear 4:5 sworn 4:8 115:20 system 14:17 17:6 76:15 <hr/> T <hr/> table 53:10,13 tables 21:17,18 tackle 31:5 tak 41:8 taking 26:16 41:22 74:5 105:22 talk 62:10 97:21 talked 8:5 54:10 talking 10:23 18:12 19:17 20:17 30:15 42:20 43:10 62:23 64:7 97:24 tall 66:21 tape 74:20 75:19 taught 18:25 42:5 70:14 71:16,19 87:13 teacher 14:10 teaching 13:25 77:16 telephone 108:22
--	---	--

<p>tend 9:2 19:10</p> <p>Teri 1:25 116:16</p> <p>term 76:4</p> <p>terms 109:23</p> <p>terrible 36:21</p> <p>terribly 18:11</p> <p>test 16:8,11</p> <p>testified 4:8 109:13,23 111:16</p> <p>testify 96:23</p> <p>testifying 4:23 6:13</p> <p>testimony 5:20 48:4 74:14 108:9 109:17,18 116:5,6,7</p> <p>tests 17:14 85:15,21,25 86:4,8,12</p> <p>Texas 1:2,18 2:7,12,16 13:3,5,9,23 23:8</p> <p>Thank 55:19 114:4</p> <p>that's 9:1 15:21 20:6 25:14 33:1,2,5 34:10 35:15 40:4 41:24 42:3 45:3 47:12 52:16 53:4 62:3 63:17 64:19 66:2 68:2 70:1 71:11 76:11,13 78:5 79:14 80:2,11 81:2 82:25 83:9 87:2 92:20 97:3,11 99:20 101:5,6 105:12,15 109:18 111:11,15</p> <p>themselves 40:9,12</p> <p>theories 9:24</p> <p>there's 13:21 14:6 27:24 28:19 55:9 57:21 62:2 76:20 77:18 79:19 83:21 88:11,12 89:20 91:5,17 100:3</p>	<p>113:20</p> <p>they'd 8:12</p> <p>they're 28:7 31:7 53:7 72:22 77:14 80:7 87:11</p> <p>third 107:6</p> <p>tickets 15:21</p> <p>till 14:13 35:25</p> <p>today 5:1,12,20 6:3 7:19 10:2,20 11:10,15 78:2,12,19 79:2,16 111:16</p> <p>today's 4:2 6:19</p> <p>tomorrow 94:21</p> <p>ton 39:18</p> <p>top 89:20 101:4</p> <p>topics 81:5</p> <p>towards 50:2 100:25 104:8</p> <p>toxicology 36:24</p> <p>traffic 15:18 73:4</p> <p>train 20:16</p> <p>trained 40:10,13 42:10 69:11,16,17</p> <p>training 15:7 20:1,9,22 21:1,19,21,25 22:12 23:6 24:12,15 27:22 29:16,20,21,25 40:15,18 69:18,23,25 70:3,7,11,25 77:15,22,23,25 78:3,9,10,11,13,20 79:3,7,8,11,12,17,1 8,24 80:22,23 81:5 87:18,20</p> <p>tranquilizer 36:15</p> <p>trans 25:8</p> <p>transcript 5:4,6 22:10,17,20</p>	<p>transport 37:9,11 38:24 39:4 63:19 72:13 76:19</p> <p>transportation 25:4,9</p> <p>transported 37:16 38:8 58:19 64:1 94:5</p> <p>transporting 11:22 25:21 37:12,14 40:11,19 43:5,20 46:9 48:2 56:14 72:16 93:8,12,25 94:10</p> <p>treat 34:14,17 35:8</p> <p>treated 9:22</p> <p>treatment 19:1 66:10</p> <p>trial 5:9 114:8</p> <p>tried 26:16,23</p> <p>trooper 13:3,6,7,10,12,14,1 5,20 15:2 68:25 81:14,24 113:1</p> <p>troopers 13:9,24 14:2</p> <p>true 27:25 29:23 33:5 44:12,16 75:4,9 78:1,5 82:12 102:7 104:20 107:8,11,12,21 112:16 115:17 116:7</p> <p>trustee 56:18</p> <p>trustees 56:1 64:25</p> <p>truth 4:23</p> <p>truthful 74:13</p> <p>try 26:19 31:18 40:25 41:12,18 60:25 73:16 95:10</p> <p>trying 5:25 31:2 40:21 41:1 49:7 90:11 95:22 109:6,14 110:4,23</p>
---	---	--

<p>turn 30:19 84:8 91:13,15 99:13,14</p> <p>TX 1:25</p> <p>type 19:14 22:7 47:16 89:11</p> <p>typed 74:22</p> <p>typical 85:3</p> <hr/> <p>U</p> <hr/> <p>ugly 36:7</p> <p>Uh-huh 32:13 36:14 58:6 82:7 110:9</p> <p>unable 60:9 104:19</p> <p>uncomfortable 61:14</p> <p>unconscious 67:14,23 68:1,13</p> <p>uncooperative 109:5</p> <p>understand 4:24 5:9,14,15 6:14 13:21 36:9,11 40:5 53:15 83:24</p> <p>understanding 27:21 48:16 73:15 93:11,14,16 109:13</p> <p>understood 4:25 5:17 41:18 66:15 80:4 98:15 107:19</p> <p>unfriendly 8:16</p> <p>UNITED 1:1</p> <p>unless 6:7 40:8 99:12</p> <p>unprofessional 68:19</p> <p>unruly 33:24 70:4,17 80:25 113:6</p> <p>updates 81:4</p> <p>upright 80:7</p> <p>upstairs 51:16 56:14 96:10</p> <p>urinate 87:24</p> <p>urine 85:24 86:4,8</p>	<p>USA 1:9 2:9 11:14</p> <p>usable 36:2</p> <p>user 6:2 8:18,19 106:7,21</p> <p>usual 94:2</p> <p>usually 106:11</p> <hr/> <p>V</p> <hr/> <p>vague 50:21 80:21 110:1 113:9,23</p> <p>vaguely 30:3</p> <p>Valley 38:6,7,13 73:12 76:19</p> <p>van 39:4,6,7,8,9 40:22 41:2,12 43:4,20 44:3,7,14,21 46:8 50:12,17 71:25 93:2 98:1 100:6 101:19 102:23 103:3,8,13 104:2 108:15,16 109:6,15 110:4,23,24,25 111:4,6</p> <p>vans 39:18</p> <p>vehi 93:25</p> <p>vehicle 4:17 15:24</p> <p>vehicles 45:20 102:19</p> <p>versus 12:22</p> <p>Victory 2:4</p> <p>video 4:3 89:19,22 90:1,4</p> <p>Videographer 2:18 4:1 7:13,16 23:25 24:3 55:20,23 94:15 95:12 114:9</p> <p>videos 89:23</p> <p>videotaped 1:14 5:1</p> <p>view 99:4</p> <p>violence 32:15</p>	<p>34:1,8</p> <p>violent 32:4 101:18</p> <p>vision 47:3 55:1</p> <p>visualize 60:15</p> <p>vivid 62:1</p> <p>vocal 87:9</p> <p>voice 30:19</p> <p>voluntarily 59:19</p> <p>volunteered 63:18 86:9</p> <p>volunteering 60:2</p> <hr/> <p>W</p> <hr/> <p>wait 92:16</p> <p>walk 16:13 45:15 48:25 52:13 58:12,22 59:3 60:10 98:7 101:21 104:8,13</p> <p>walked 45:16 46:20 66:24</p> <p>walker 98:7</p> <p>walkie-talkies 81:16</p> <p>walking 17:23 46:23 58:13,19 60:14 104:16</p> <p>wall 43:4,14,20 46:8 88:8 100:25 101:1,2 103:12</p> <p>walls 39:9 41:2</p> <p>wasn't 18:15 20:14 51:18 56:13 57:3</p> <p>watch 48:24 113:14</p> <p>watching 25:20,23 80:4</p> <p>water 9:1 26:7,8,16 80:8,9</p> <p>ways 53:2</p> <p>weapon 92:10</p> <p>wearing 68:4</p>
---	--	--

Wednesday 94:23 weeks 21:8,9 weight 60:5 weights 61:8 we'll 11:15 22:19 23:13,15,18 95:9 107:4 114:7 well-being 91:12 103:19 we're 7:13 23:25 24:3 55:20,23 71:7 94:15 95:12 96:1 Wesley 3:12 4:4 west 21:15 westbound 21:15 WESTERN 1:2 whatever 16:8 20:18 41:11 53:25 56:15,18 60:9 106:1 112:4 wheel 76:13 wheelchairs 58:18 59:7 whenever 8:12 14:15 19:11 45:20,22 47:17 106:5 whether 8:15 34:18 57:25 61:11 66:22 79:16 85:17 89:12 90:4 93:5 105:25 106:24 white 37:20 93:24 Whoa 67:6 whole 100:19 wholeheartedly 33:9 34:4 whom 116:3 who's 10:7,9 84:3 whose 116:5 wide 86:22	willingly 111:4 Wilson 66:22 window 39:11 43:15 windows 101:3 wish 64:17 68:5 withdraw 20:15 44:15 52:9 71:9 witness 3:2 4:6 47:21,25 78:23 91:21 96:25 102:13 111:12 116:5,8 Woodland 2:4 work 11:25 12:12,13,20 13:2 14:3,8,16,18 15:1 36:6 73:12 76:18,19,20 77:2 worked 12:2,3,18 19:20 24:5,13 29:15,23,24 42:4 56:19 66:20 70:5,20 71:4 80:5 81:8,13,16 82:9 93:9 working 11:24 12:15,18,21 13:1 15:13 26:23,25 27:5 28:14 35:22 56:14 76:21 77:17,18 93:18 world 15:15 worry 8:22 59:19 wrist 31:5 write 15:21 writing 29:1,3 written 21:24 22:5 28:13 wrong 40:6 68:2 wrote 47:21 111:10,15 <hr/> Y	yell 65:17 yelling 96:5 yet 30:9 35:7 109:21 YMCA 60:2 You-all 67:2 you'll 5:3,5 6:6 22:20 23:3 88:11 yourself 93:2 104:7 you've 15:18 34:12,13 35:3 42:4 53:13,14,21 81:2,8 84:1 91:10
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